Washington, Tuesday, December 15, 1959

Title 5—ADMINISTRATIVE PERSONNEL

Chapter I—Civil Service Commission
PART 24—FORMAL EDUCATION REQUIREMENTS FOR APPOINTMENT
TO CERTAIN SCIENTIFIC, TECHNICAL, AND PROFESSIONAL POSITIONS

Pharmacist

The headnote and paragraph (a) of \$24.27 are amended to read as follows: \$24.27 Pharmacist, including Pharmacist (Trainee), GS-660 (all grades).

(a) Educational requirement. Applicants must have successfully completed at least a 4-year course in pharmacy leading to a bachelor's or higher degree at an approved school. Approved schools are those schools, colleges, or universities (1) which were at the time of the applicant's graduation accredited by the American Council on Pharmaceutical Education, or (2) which were members of the American Association of Colleges of Pharmacy and offered a 4-year course in pharmacy, but were discontinued prior to the initial accrediting of schools by the American Council on Pharmaceutical Education.

(Sec. 11, 58 Stat. 390; 5 U.S.C. 860)

United States Civil Service Commission,

[SEAL] WM. C. HULL,

Executive Assistant.

[F.R. Doc. 59-10553; Filed, Dec. 14, 1959; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 7417 c.o.]

PART 13—DIGEST OF CEASE AND DESIST ORDERS

Brother International Corporation of California et al.

Subpart—Advertising falsely or misleadingly: § 13.155 Prices: Bait; Exaggerated as regular and customary; Fictitious marking. Subpart—Furnishing means and instrumentalities of misrepresentation or deception: § 13.1055 Furnishing means and instrumentalities of misrepresentation or deception. Subpart—Misrepresenting oneself and goods—Prices: § 13.1779 Bait; § 13.1805 Exaggerated as regular and customary; § 13.1810 Fictitious marking. Subpart—Using contest schemes unfairly: § 13.2270 Using contest schemes unfairly.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Brother International Corporation of California et al., Los Angeles, Calif., Docket 7417, October 21, 1959]

In the Matter of Brother International Corporation of California, a Corporation, and Max Hugel, Bernard J. Etzin, Max H. Redlich, and Roy Nakagawa, Individually and as Officers of Said Corporation

This proceeding was heard by a hearing examiner on the complaint of the Commission charging a Los Angeles sewing machine distributor with pricing its merchandise fictitiously and supplying retail customers with deceptive contests involving worthless "prizes"; supplying retailers with material for conducting so-called contests to be published in newspapers and periodicals with "checks" or "certificates" given to all entrants regardless of correctness of answer and used solely as leads to prospective purchasers of its sewing machines, with the amount of the "check" added to the regular retail price in advance; and using fictitious and inflated prices in connection with their machines, thereby misrepresenting the usual retail prices.

After acceptance of an agreement for a consent order, the hearing examiner made his initial decision and order to cease and desist which became on October 21 the decision of the Commission.

The order to cease and desist is as follows:

It is ordered, That the respondents Brother International Corporation of California, a corporation, and its officers, and Max Hugel, Bernard J. Etzin, and Roy Nakagawa, individually and as officers of said corporation, and respondents; representatives and employees, directly or through any corporate or other device, in connection with the

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offering for sale, sale or distribution of sewing machines, or other merchandise, in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

- 1. Representing or assisting the retailers of their sewing machines, by supplying materials, or otherwise, to represent any promotional plan for obtaining "leads" to prospective purchasers in a contest unless the winners or recipients of awards or prizes are all selected on the basis of the correctness of their answers.
- 2. Representing that awards or prizes are of a certain value or worth unless inusing such awards or prizes the recipients thereof are benefited by, or save the amount of, the stated value or worth of such prizes or awards.
- 3. Representing directly or by implication, or placing in the hands of others, the means and instrumentalities whereby they are enabled to represent, directly or by implication that a stated price is the regular and usual retail price of respondents' sewing machines when such sewing machines are regularly and usually sold at retail at lesser prices without a trade-in or without a certificate or other award entitling the purchaser to a reduction in price.

It is further ordered. That the complaint be, and the same hereby is, dismissed as to respondent Max H. Red-

By "Decision of the Commission", etc., report of compliance was required as

It is ordered. That respondents Brother. International Corporation of California, a corporation and its officers, and Max Hugel, Bernard J. Etzin and Roy Nakagawa, individually and as officers of said corporation, shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: October 21, 1959.

By the Commission.

ROBERT M. PARRISH, [SEAL] Secretary.

[F.R. Doc. 59-10560; Filed, Dec. 14, 1959; [F.R. Doc. 59-10555; Filed, Dec. 14, 1959; 8:47 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter III—Federal Aviation Agency

SUBCHAPTER C-AIRCRAFT REGULATIONS

[Reg. Docket No. 208; Amdt. 66]

PART 507—AIRWORTHINESS **DIRECTIVES**

Fairchild F-27 Series Aircraft

Service experience has established that failure of the threads in the gimbal nuts of the wing flap actuating screw jack assembly of Fairchild F-27 Series aircraft can occur rendering the flaps inoperable or creating an asymmetrical condition unsafe for flight.

It is necessary in the interests of safety to require that these gimbal nuts be repetitively inspected for damage. For this reason, the Administrator finds that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective upon publication in the FEDERAL REGISTER.

In consideration of the foregoing § 507.10(a), (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive:

59-26-4 FARCHILD. Applies to all F-27, F-27A, and F-27B aircraft.

Compliance required as indicated.

Because of failure of the gimbal nuts in the wing flap actuating screw jacks which render the gimbal nut unsafe for further use, the following shall be accomplished prior to the next passenger carrying flight unless already accomplished within the last 100 hours time in service. These inspections must be repeated every 100 hours time in service thereafter.

(a) Check flaps for proper rigging in accordance with F-27 maintenance manual Chapter 27 Subject 5 making sure that no preload exists between the inboard and outboard screw jack of each inboard and outboard flap. Lower flaps to approximately 16½ degrees position. Move flap up and down at the trailing edge and measure or sense with fingers for radial or linear play between screw jack and gimbal nut. If relative movement between the screw jack and gimbal nut exceeds 0.010 inch radially or linearly, the gimbal nut must be removed from the screw jack and the threads visually inspected for damage. Any indication of thread extrusion or roll calls for immediate replacement. If relative motion between the screw jack and the gimbal nut exceeds 0.030 inch linear or 0.045 inch radial the gimbal nut must be replaced.

(b) Conduct visual inspection for freedom of movement and lubricate all inboard and outboard wing flap gimbal nuts P/N 27-165012-3, -4, -5, -6, P/N 27-175023-3, -4, bushings P/N 27-165-13-3, and spindles P/N 27-175017-21, 27-175022-3, 27-165011-21, 27-165023-21.

(Fairchild Service Bulletin 27-18A dated October 27, 1959, partially covers this subject.)

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on December 9, 1959.

E. R. QUESADA. Administrator.

8:46 a.m.1

Title 17—COMMODITY AND SECURITIES EXCHANGES

Chapter II—Securities and Exchange Commission

PART 240-GENERAL RULES AND REGULATIONS, SECURITIES EX-CHANGE ACT OF 1934

Exempting Certain Transactions Effected in Connection With Distribu-

On October 29, 1959, in Securities Exchange Act Release No. 6103, the Securities and Exchange Commission announced a proposal to amend its Rules 16b-2 and 16c-2 (§§ 240.16b-2 and 240.16c-2) under the Securities Exchange Act of 1934. The Commission has reviewed the comments and suggestions received on the proposal and has adopted the amendments as set forth below.

Section 16(b) of the Act provides that any profit realized by a beneficial owner of more than 10 percent of any class of any equity security registered on a national securities exchange or by a director or officer of the issuer of such a security (sometimes referred to herein as "insiders") as a result of any non-exempt short-swing transaction (purchase and sale, or sale and purchase, within six months) may be recovered by the issuer or by any security holder on its behalf. Section 16(c) of the Act makes it unlawful for the "insiders" referred to, directly or indirectly, to sell any non-exempted equity security of such issuer (1) if they do not own the security sold, or (2) if owning it, they do not deliver it within the period specified in the section. Rules 16b-2 and 16c-2 have provided exemptions from the above provisions for certain distributing transactions under specified conditions including, among others, the requirement that persons other than "insiders" be participating in the distribution to an equal extent and on terms at least as favorable as the "insiders".

The amendments to the above rules are intended to make it clear that when the conditions of the rules are met, certain other transactions which frequently occur in connection with distributions are also exempted. These include (1) stabilizing transactions, which may involve the purchase of outstanding securities of the same class rather than securities of the block being distributed, or, where a convertible security is being distributed, outstanding securities of the class subject to the conversion right: (2) transactions effected in connection with the various types of rights offerings, e.g. "lay offs" in a Shield's Plan type of distribution; and (3) transactions in connection with so-called standby redemptions, i.e., where convertible securities selling above their redemption price are called for redemption and at the same time arrangements are made under which dealers undertake to purchase any such securities tendered at a price slightly higher than the redemption price, to convert them, and to distribute the underlying stock.

Eule 16c-2 has also been amended to delete the requirement that the distribution be made on behalf of the issuer or a person in a control relationship with the issuer, a requirement which is not contained in Rule 16b-2. It is believed that where all of the other conditions of the rule can be met the identity of the person on whose behalf the distribution is being made is not a material consideration in determining whether the exemption should be available.

Statutory basis. The Securities and Exchange Commission, acting pursuant to the provisions of the Securities Exchange Act of 1934, particularly sections 3(a) (12), 16(b), 16(c), and 23(a) thereof, hereby amends Rules 16b-2 and 16c-2 as stated below. The Commission deems such action necessary and appropriate in the public interest and for the protection of investors and necessary to carry out its functions under the Act. The Commission finds, in accordance with the provisions of section 4(c) of the Administrative Procedure Act, that this action has the effect of granting exemption and may be and is hereby declared effective December 4, 1959.
The text of Rule 16b-2, as amended

The text of Rule 16b-2, as amended (§ 240.16b-2), is as follows:

§ 240.16b-2 Exemption from section 16(b) of certain transactions effected in connection with a distribution.

- (a) Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities shall be exempt from the provisions of section 16(b) of the Act, to the extent specified in this § 240.16b–2, as not comprehended within the purpose of said section, upon the following conditions:
- (1) The person effecting the transaction is engaged in the business of distributing securities and is participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;
- (2) The security involved in the transaction is (i) a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the issuer or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities, or (ii) a security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

(3) Other persons not within the purview of section 16(b) of the Act are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 16(b) of the Act by this § 240.16b-2. However, the performance of the functions of manager of a distributing group and the receipt of a bona fide

payment for performing such functions shall not preclude an exemption which would otherwise be available under this § 240.16b-2.

(b) The exemption of a transaction pursuant to this § 240.16b-2 with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this § 240.16b-2.

The text of Rule 16c-2, as amended (§ 240.16c-2), is as follows:

§ 240.16c-2 Exemption from section 16(c) of certain transactions effected in connection with a distribution.

Any security shall be exempt from the operation of section 16(c) of the Act to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:

(a) The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his behalf intends in good faith to offset such sale with a security to be acquired by or on behalf of the dealer as a participant in an underwriting, selling or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

(b) Other persons not within the purview of section 16(c) of the Act are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of section 16(c) of the Act by this § 240.16c-2. However, the performance of the functions of manager of a distrubuting group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this § 240.16c-2.

By the Commission.

[SEAL]

ORVAL L. DuBois, Secretary.

DECEMBER 4, 1959.

[F.R. Doc. 59-10568; Filed, Dec. 14, 1959; 8:50 a.m.]

Title 26—INTERNAL REVENUE, 1954

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER G-REGULATIONS UNDER TAX CONVENTIONS

[T.D. 6431]

PART 517—PAKISTAN

Release of excess tax withheld and exemption from, or reduction in rate of, withholding of tax at source in the case

of residents of Pakistan and of foreign companies managed and controlled in Pakistan, as affected by the income tax convention between the United States and Pakistan proclaimed by the President of the United States on May 28, 1959.

Sec.

517.1 Introductory.

517.2 Dividends paid by, or to, a Pakistan company.

517.3 Patent and copyright royalties. 517.4 Private pensions and annuities.

517.5 Interest derived by the State Bank of Pakistan.

517.6 Beneficiaries of a domestic estate or trust.

517.7 Release of excess tax withheld at source.

517.8 Information to be furnished in ordinary course.

517.9 Application of the convention to fiscal years.

AUTHORITY: §§ 517.1 to 517.9 issued under sec. 7805, 68A Stat. 917; 26 U.S.C. 7805.

§ 517.1 Introductory.

(a) Pertinent provisions of the convention. The income tax convention between the United States and Pakistan signed on July 1, 1957, referred to it §§ 517.1 to 517.9 as the convention, provides in part as follows, effective for taxable years beginning on or after January 1, 1959:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:

(a) In the United States of America: The Federal income taxes, including surtaxes (hereinafter referred to as United States tax).

(b) In Pakistan: The income tax, supertax and the business profits tax (hereinafter referred to as Pakistan tax).

(2) The present Convention shall also apply to any other taxes of a substantially similar character (including excess profits tax) imposed by either contracting State after the date of signature of the present Convention, or by the Government of any territory to which the present Conventior is extended under Article XVIII.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires:

(a) The term "United States" means the United States of America and when used in a geographical sense means the States thereof, the Territories of Alaska and Hawai and the District of Columbia;

(b) The term "Pakistan" means the Provinces of Pakistan and the Capital of the Federation:

(c) The terms "one of the contracting States" and "the other contracting States mean the United States or Pakistan, as the context requires;
(d) The term "tax" means United States

(d) The term "tax" means United States tax, or Pakistan tax, as the context requires; (e) The term "person" includes any body

of persons, corporate or not corporate;

(f) The term "company" means any body corporate or not corporate, assessed as a company under Pakistan law relating to Pakistan tax;

(g) The term "United States corporation' means a corporation, association or other like entity created or organized in the United States or under the law of the United States or of any State or Territory of the United States:

(1) The term "resident of the United States" means any individual or fiduciary who is resident in the United States for the purposes of the United States tax, and

not resident in Pakistan for the purposes of the Pakistan tax, and any United States corporation or any partnership created or organized in the United States or under the laws of the United States, being a corporation or partnership which is not resident

in Pakistan for the purposes of Fakistan tax;
(i) The term "resident of Pakistan" means any person (other than a citizen of the United States or a United States corporation) who is resident in Pakistan for the purposes of Pakistan tax and not resident in the United States for the purposes of the United States tax. A company is to be regarded as a resident of Pakistan if its business is managed and controlled in Pakistan;

(j) The terms "resident of one of the contracting States" and "resident of the other contracting State' means a person who is a resident of the United States or a person who is a resident of Pakistan, as the context

requires;

(k) The terms "United States enterprise" and "Pakistan enterprise" mean, respectively an industrial or commercial enterprise or undertaking carried on in the United States by a resident of the United States and an industrial or commercial enterprise or undertaking carried on in Pakistan by a resident of Pakistan; and the terms "enterprise of one of the contracting States" and prise of the other contracting State" mean a United States enterprise or a Pakistan

enterprise, as the context requires;
(1) The term "industrial or commercial profits" does not include rents or royalties in respect of motion picture films or of oil wells, mines and quarries, or income in the form of dividends, interest, rents or royalties. or fees or other remuneration derived by an enterprise from the management, control or supervision of the trade, business, or other activity of another enterprise or concern, or remuneration for labor or personal services,

or income from the operation of ships;
(m) The term "permanent establishment", when used with respect to an enterprise of one of the contracting States, means a branch, management, factory or other fixed place of business, but does not include an agency unless the agent has, and habitually exercises, a general authority to negotiate and conclude contracts on behalf of such enterprise or has a stock of merchandise from which he regularly fills orders on its

behalf. In this connection-

(i) An enterprise of one of the contracting States shall not be deemed to have a permanent establishment in the other contracting State merely because it carries on business dealings in that other contracting State through a bona fide broker or general commission agent acting in the ordinary course of his business as such: and

(ii) The fact that a corporation or company which is a resident of one of the contracting States has a subsidiary corporation or company which is a resident of the other contracting State or which is engaged in trade or business in such other contracting State (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary corporation or company a permanent establishment of its parent

corporation or company;

(n) The term "taxation authorities" means, in the case of the United States, the Commissioner of Internal Revenue as authorized by the Secretary of the Treasury and, in the case of Pakistan, the Central Board of Revenue or their authorized representatives; and, in the case of any territory to which the present Convention is extended under Article XVIII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

(2) In the application of the provisions of the present Convention by one of the contracting States, any term not otherwise defined shall, unless the contest otherwise re-

quires, have the meaning which it has under the laws of that contracting State relating to the taxes which are the subject of the present Convention.

ARTICLE VI

- (1) The rate of United States tax on dividends paid by a United States corporation to a Pakistan company-
- (i) Not having a permanent establishment in the United States and
- (ii) Owning shares carrying more than 50 percent of the voting power in the corporation paying such dividends

shall not exceed fifteen percent.

* ARTICLE VII

(1) Dividends paid by a company which is a resident of Pakistan shall be exempt from United States tax except where the recipient thereof is a citizen or resident or corpora-tion of the United States.

ARTICLE VIII

- (1) Any royalty (other than royalties or rentals from motion picture films) paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, and derived from sources in one of the contracting States by a resident of the other contracting State not having a permanent establishment in the former State shall be exempt from tax by such former State.
- (2) Where any royalty exceeds a fair and reasonable consideration in respect of the rights for which it is paid, the exemption provided by the present Article shall apply only to so much of the royalty as represents such fair and reasonable consideration.

ARTICLE IX

- (1) Remuneration, including pensions and annuities, paid by or on behalf of the Government of the United States or its political subdivisions to an individual who is a citizen of the United States, not ordinarily resident in Pakistan, for services rendered to that Government in the discharge of governmental functions shall be exempt from Pakistan tax.
- (2) Remuneration, including pensions and annuities, paid by or on behalf of the Government of Pakistan or the Government of a Province in Pakistan or any local authority thereof to any individual who is a citizen of Pakistan not having immigrant status in the United States, for services rendered in the discharge of functions of that Government or of local authority, as the case may be, shall be exempt from United States tax.
- (3) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on for purposes of profit.

ARTICLE X

- (1) A pension or annuity (other than a pension or annuity of the kind referred to in paragraphs (1) and (2) of Article IX) derived from sources within one of the contracting States by a resident of the other contracting State shall be exempted from tax by the former State.

 (2) The term "annuity," for the purposes
- of this Article, means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time, under an obligation to make the pay-ments in return for adequate and full consideration in money or money's worth.
- (3) This Article shall not apply to a pension or annuity payable from a superannuation fund approved or recognized under the tax law of Pakistan nor to a pension or annuity from a fund, under an employees' pen-

sion or annuity plan, contributions to which under the tax law of the United States are deductible in determining the taxable income of the employer.

ARTICLE XIV

(1) Effective January 1, 1956 the State Bank of Pakistan shall be exempted from United States tax with respect to interest from sources within the United States.

* ARTICLE XVI

- (1) The taxation authorities of the contracting States shall exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions in relation to the taxes which are the subject of the present Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of the present Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.
- (3) The taxation authorities of both contracting States may prescribe regulations necessary to interpret and carry out the provisions of the present Convention and may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention.
- (4) The provisions of the present Convention shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance now or hereafter accorded by the laws of either contracting State in determining the tax of such State.

- (1) The citizens or nationals of one of the contracting States shall not, while resident in the other contracting State, be subjected in such other State to texes or any require-ment connected therewith which is other, higher or more burdensome than the taxes and connected requirements to which the citizens or nationals of such other State resi-
- dent therein are or may be subjected.
 (2) The term "citizens" or "nationals" as used in this Article, includes all legal persons, partnerships and associations deriving their status from, or created or organized under, the laws in force in the respective contracting States.
- (3) Nothing contained in this Article shall be construed—
- (a) as obliging either of the contracting States to grant to persons not resident in its territory those personal allowances, reliefs and reductions for tax purposes which are by law available only to persons who are so resident; or
- (b) as affecting any provisions of the law of Pakistan regarding the imposition of tax on a non-resident or the grant of rebate of tax to companies fulfilling specified requirements regarding the declaration and payment of dividends, unless those requirements are fulfilled.

ARTICLE XIX

The present Convention shall come into force on the date when the last of all such things shall have been done in the United States and Pakistan as are necessary to give the Convention the force of law in the United States and Pakistan, respectively, and shall thereupon have effect-

(a) In the United States, for the taxable years beginning on or after the first day of January of the year in which the instruments of ratification are exchanged;

(b) In Pakistan, in respect of the "previous years" or the "chargeable accounting periods" (as defined by the tax laws of Pakistan) beginning on or after the first day of January of the year in which the instruments of ratification are exchanged.

ARTICLE XX

The present Convention shall continue in effect indefinitely but either of the contracting States may, on or before the 30th day of June in any calendar year not earlier than three years from the date of signature of the present Convention, give to the other contracting State written notice of termination and, in such event the present Convention shall cease to be effective—

(a) in the United States, for the taxable years beginning on or after the first day of January next following such written notice

of termination; and

(b) in Pakistan, in respect of the "previous years" or the "chargeable accounting periods" (as defined by the tax laws of Pakistan) beginning on or after the first day of January next following such written notice of termination.

(b) Meaning of terms. As used in \$\\$ 517.1 to 517.9, any term defined in the convention shall have the meaning so assigned to it; any term not so defined shall, unless the context otherwise requires, have the meaning which such term has under the internal revenue laws of the United States.

§ 517.2 Dividends paid by, or to, a Pakistan company.

(á) Exemption from, or reduction in rate of, United States tax—(1) Dividends paid by a foreign company managed and controlled in Pakistan. Dividends which are paid by a foreign company whose business is managed and controlled in Pakistan and are received in a taxable year beginning on or after January 1, 1959, by a recipient who is not a citizen or resident or corporation of the United States are exempt from United States tax under the provisions of Article VII(1) of the convention.

(2) Dividends paid to a Pakistan parent company. The rate of United States tax imposed upon dividends paid by a domestic corporation and received from sources within the United States in a taxable year beginning on or after January 1, 1959, by a Pakistan company shall not exceed 15 percent under the provisions of Article VI(1) of the convention if (i) the Pakistan company does not have a permanent establishment in the United States at any time during the taxable year in which the dividend is received and (ii) the Pakistan company owns, at the time the dividend is paid. shares of stock carrying more than 50 percent of the voting power of the domestic corporation. For the purposes of this subparagraph, the term "Pakistan company" means a company, as defined in Article II(1)(f) of the convention.

(b) Withholding of tax from dividends—(1) Exemption from withholding. No withholding of United States tax is required in the case of dividends paid by a foreign company whose business is managed and controlled in Pakinstan if, in accordance with paragraph (a) (1) of this section, the dividends are exempt from United States tax.

(2) Withholding of tax at rate of 15 percent from dividends paid to a Pakistan parent company—(i) Notification by letter. To secure withholding of United States tax on or after January 1,-1959, at the rate of 15 percent in the case of dividends entitled to the reduced rate in accordance with paragraph (a) (2) of this section, the Pakistan company shall notify the withholding agent by letter in duplicate that the dividends are subject to the reduced rate of United States tax under the provisions of Article VI(1) of the convention. The letter of notification shall be signed by an officer of the company and shall show the name and address of the corporation paying the dividends, the name and address of the Pakistan company receiving the dividends, and the official title of the officer signing the letter. The letter shall contain a statement that (a) the owner of the dividends is a Pakistan company, (b) the owner at no time during the current taxable year had a permanent establishment in the United States, and (c) the Pakistan company owns shares of stock carrying more than 50 percent of the voting power of the domestic corporation paying the dividends. The letter shall also indicate the dates on which the current taxable year of the taxpaver begins and ends.

(ii) Use of letter for release of excess tax. If the letter of notification is also to be used as authorization for the release, pursuant to § 517.7(a) (2), of excess tax withheld from dividends, it shall also contain a statement that (a) at the time when the dividends were paid from which the excess tax was withheld, the owner was a Pakistan company, (b) the owner at no time during the taxable year in which the dividends were received had a permánent establishment in the United States, and (c) the Pakistan company owned, at the time when the dividends were paid, shares of stock carrying more than 50 percent of the voting power of the domestic corporation paying the dividends. The dates of the beginning and ending of the taxable year of the taxpayer in which the dividends were received shall also be indicated.

(iii) Manner of filing letter. The letter of notification, which shall constitute authorization for withholding of tax at the reduced rate of 15 percent, shall be filed with the withholding agent for each successive 3-calendar-year period during which the dividends are paid. For this purpose, the first of such periods shall commence with the beginning of the calendar year in which the dividends are first paid on or after January 1, 1959. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter of notification has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the Pakistan company ceases to be eligible for the reduction in rate of United States tax granted by Article VI(1) of the convention, it shall promptly notify the withholding agent by letter in duplicate When any change occurs in the ownership of the shares of stock as recorded in the books of record, the reduction in the rate of withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(iv) Disposition of letter. Each letter of notification, or the duplicate thereof shalf be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(3) Dividends paid to Pakistan com-

pany where degree of stock ownership is uncertain—(i) Request for determination in respect of future payments If a Pakistan company anticipates the receipt of dividends from a domestic corporation and the relationship existing between the Pakistan company and the domestic corporation is such as to render uncertain whether, by reason of the requirement as to stock ownership the reduction in rate of United States tax granted by Article VI(1) of the convention will apply to such dividends, the Pakistan company shall not undertake to file the letter of notification prescribed in subparagraph (2) (i) of this paragraph unless it has, prior to such filing, applied for and received from the Commissioner of Internal Revenue Washington 25, D.C., a determination that it owns shares of stock carrying more than 50 percent of the voting power of the domestic corporation. The application for the determination shall contain a full statement of all the facts pertinent to such a determination.

(ii) Notification of determination As soon as practicable after the application has been filed, the Commissioner of Internal Revenue will determine whether the Pakistan company ownshares of stock carrying sufficient voting power of the domestic corporation to permit the Pakistan company to claim the benefit of Article VI(1) of the convention in the case of such dividends and shall notify the Pakistan company of his determination. The Pakistan company shall thereafter file with the withholding agent a copy of the Commissioner's letter of notification.

(iii) Securing reduced rate of with-holding. If the determination of the Commissioner of Internal Revenue is that the Pakistan company does own shares of stock carrying more than 50 percent of the voting power of the domestic corporation, the Pakistan company may thereafter, if otherwise qualified, secure the reduced rate of with-holding of United States tax by filing a letter of notification in accordance with subparagraph (2) of this paragraph.

(Iv) Period during which determination is applicable. A determination by the Commissioner of Internal Revenue that a Pakistan company does own shares of stock carrying sufficient voting power of the domestic corporation to

permit the Pakistan company to claim the benefit of Article VI(1) of the convention will apply until such time as the stock ownership of the domestic corporation has changed to the extent that, because of such change, dividends to be received from the domestic corporation by the Pakistan company no longer qualify for the reduced rate of United States tax under Article VI(1) of the convention. If such change in stock ownership occurs, the Pakistan company shall promptly notify both the Commissioner of Internal Revenue and the withholding agent of the then existing facts with respect to such stock ownership.

(v) Request for determination in respect of past payments. If a Pakistan company has received on or after January 1, 1959, dividends from a domestic corporation and the relationship existing between the Pakistan company and the domestic corporation was, at the time the dividends were paid, such as to render uncertain whether, by reason of the requirement as to stock ownership, the dividends-qualified for the reduction in rate of United States tax granted by Article VI(1) of the convention, the Pakistan company shall apply to the Commissioner of Internal Revenue, Washington 25, D.C., for a determination as to whether the Pakistan company owned, at the time the dividends were paid, shares of stock carrying sufficient voting power of the domestic corporation. If the Commissioner's determination is that at such time the stock ownership was such as to permit the application of the reduced rate of United States tax granted by Article VI(1) of the convention, his letter of notification may, subject to the provisions of § 517.7 (a) (2), authorize the release of excess tax withheld from such dividends.

§ 517.3 Patent and copyright royalties.

- (a) Exemption from United States tax—(1) In general. Any royalty paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trademark, or other like property, and received from sources within the United States in a taxable year beginning on or after January 1, 1959, by a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax, or by a foreign company whose business is managed and controlled in Pakistan, is exempt from United States tax under the provisions of Article VIII of the convention if such alien or company has not had a permanent establishment in the United States at any time during the taxable year in which the royalty is received. Notwithstanding the preceding sentence, no exemption from United States tax shall be granted under Article VIII of the convention in respect of royalties or rentals from motion pic-
- (2) Exemption applicable to reasonable consideration only. If any royalty exceeds a fair and reasonable consideration for the rights in respect of which it is paid, the exemption under this paragraph shall apply to only so much of the royalty as represents the fair and reasonable consideration.

- (3) Personal services. If a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax were to perform personal services within the United States during the taxable year but not have a permanent establishment in the United States at any time during the year, he would be entitled to the exemption granted by Article VIII of the convention even though under the provisions of section 871(c) of the Internal Revenue Code of 1954 he had engaged in trade or business within the United States during that year by reason of his having performed personal services therein.
- (b) Exemption from witholding of -(1) Notification by letter. To avoid withholding of United States tax on or after January 1, 1959, from a royalty which is exempt in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax, or the foreign company whose business is managed and controlled in Pakistan, shall notify the withholding agent by letter in duplicate that the royalty is exempt from United States tax under the provisions of Article VIII of the convention. The letter of notification shall be signed by the owner of the royalty, or by his trustee or agent, and shall show the name and address of the obligor and the name and address of the owner of the royalty. The letter shall contain a statement that (i) the owner is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner is a foreign company whose business is managed and controlled in Pakistan, and (ii) the owner has at no time during the current taxable year had a permanent establishment in the United States. The letter shall also indicate the dates on which the current taxable year of the taxpaver begins and ends.
- (2) Use of letter for release of excess tax. If the letter is also to be used as authorization for the release, pursuant to § 517.7(a) (3), of excess tax withheld from the royalty, it shall also contain a statement that (i) at the time when the royalty was received from which the excess tax was withheld, the owner was neither a citizen nor a resident of the United States but was a resident of Pakistan for the purposes of Pakistan tax, or, in the case of a corporation, the owner was a foreign company whose business was managed and controlled in Pakistan, and (ii) the owner at no time during the taxable year in which the royalty was received had a permanent establishment in the United States. The dates of the beginning and ending of the taxable year of the taxpayer in which the royalty was received shall also be indicated.
- (3) Manner of filing letter. The letter of notification, which shall constitute authorization for the payment of the royalty without withholding of United States tax at source, shall be filed with the withholding agent for each successive 3-calendar-year period during which the royalty is paid. For this purpose, the first of such periods shall commence with the beginning of the calendar year

in which the royalty is first paid on or after January 1, 1959. Each letter filed with any withholding agent shall be filed not later than 20 days preceding the date of the first payment within each successive period, or, if that is not possible because of special circumstances, as soon as possible after such first payment. Once a letter has been filed in respect of any 3-calendar-year period, no additional letter need be filed in respect thereto unless the Commissioner of Internal Revenue notifies the withholding agent that an additional letter shall be filed by the taxpayer. If, after filing a letter of notification, the taxpayer ceases to be eligible for the exemption from United States tax granted by Article VIII of the convention, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the royalty as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) Disposition of letter. Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

(3) Reasonableness of consideration. For purposes of this paragraph, the withholding agent may, unless he has information to the contrary, presume that the royalty represents a fair and reasonable consideration for the rights in respect of which it is paid.

§ 517.4 Private pensions and annuities.

- (a) Exemption from United States tax—(1) Pensions and annuities which are exempt. Except as provided in subparagraph (2) of this paragraph, a pension or annuity which is derived from sources within the United States and received in a taxable year beginning on or after January 1, 1959, by a nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall be exempt from United States tax under the provisions of Article X of the convention.
- (2) Pensions and annuities which are not exempt. The following pensions or annuities are not exempt from United States tax under the provisions of Article X of the convention or under this section—
- (i) A pension or annuity paid by or on behalf of the Government of the United States or its political subdivisions, for services rendered to that Government in the discharge of governmental functions; and
- (ii) A pension or annuity paid by or on behalf of the Government of Pakistan or the Government of a Province in Pakistan or any local authority thereof, for services rendered in the discharge of functions of that Government or of local authority, as the case may be; and
- (iii) A pension or annuity payable from a fund, under an employees' pension or annuity plan, contributions to which are deductible under the tax law of the United States in determining taxable income of the employer.

(b) Definition of annuity. As used in this section, the term "annuity" means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(c) Exemption from withholding of tax-(1) Notification by letter. To avoid withholding of United States tax on or after January 1, 1959, from pensions or annuities which are exempt from tax in accordance with paragraph (a) of this section, the nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax shall notify the withholding agent by letter in duplicate that the pensions or annuities are exempt from United States tax under the provisions of Article X of the convention. The letter of notification shall be signed by the owner of the income, shall show the name and address of both the payer and the owner of the income, and shall contain a statement that the owner, an individual, is neither a citizen nor a resident of the United States but is a resident of Pakistan for the purposes of Pakistan tax. The letter shall also indicate the dates on which the current taxable year of the taxpayer begins and ends.

(2) Use of letter for release of tax. If the letter is also to be used as authorization for the release, pursuant to \$517.7(a) (3), of excess tax withheld from the pensions or annuities, it shall also contain a statement that the owner was, at the time when the income was received from which the excess tax was withheld, neither a citizen nor a resident of the United States but was a resident of Pakistan for the purposes of Pakistan tax. The dates of the beginning and ending of the taxable year of the taxpayer in which the income was received shall also be indicated.

(3) Manner of filing letter. The letter of notification shall constitute authorization for the payment of the pensions or annuities without withholding of United States tax at source unless the Commissioner of Internal Revenue notifies the withholding agent thereafter to withhold the tax from such items of income. If, after filing a letter of notifi-cation, the owner of the income ceases to be eligible under the convention for the exemption from United States tax in the case of such items of income, he shall promptly notify the withholding agent by letter in duplicate. When any change occurs in the ownership of the income as recorded on the books of the payer, the exemption from withholding of United States tax shall no longer apply unless the new owner of record is entitled to and does properly file a letter of notification with the withholding agent.

(4) Disposition of letter. Each letter of notification, or the duplicate thereof, shall be forwarded immediately by the withholding agent to the Director of International Operations, Internal Revenue Service, Washington 25, D.C.

§ 517.5 Interest derived by the State Bank of Pakistan.

(a) Exemption from United States tax. Any interest of the State Bank of Pakistan which is received from sources within the United States on or after January 1, 1956, is, to the extent not exempt from tax under section 892 of the Internal Revenue Code of 1954, exempt from United States tax under the provisions of Article XIV(1) of the convention.

(b) Exemption from withholding of tax. No withholding of United States tax is required in the case of interest received from sources within the United States by the State Bank of Pakistan if, in accordance with paragraph (a) of this section, the interest is exempt from United States tax.

(c) Refund of excess tax withheld before January 1, 1959. If United States tax has been withheld before January 1, 1959, and on or after January 1, 1956, from interest of the State Bank of Pakistan, a claim by the bank for the refund of any overpayment resulting therefrom may be made under section 6402 of the Internal Revenue Code of 1954 and the regulations thereunder. For the release of excess tax withheld from such interest on or after January 1, 1959, see § 517.7(a) (4).

§ 517.6 Beneficiaries of a domestic estate or trust.

A nonresident alien individual who is resident in Pakistan for the purposes of Pakistan tax and who is a beneficiary of a domestic estate or trust shall be entitled to the exemption from United States tax granted by Article VIII of the convention with respect to patent and copyright royalties to the extent that (a) any amount paid, credited, or required to be distributed by the estate or trust to the beneficiary is deemed to consist of those items and (b) the items so deemed to be included in such amount would, without regard to the convention. be includible in his gross income; provided, however, that the beneficiary otherwise satisfies the requirements for exemption specified in Article VIII of the convention. To obtain the exemption from withholding of United States tax in such a case, the beneficiary must execute and submit to the fiduciary of the estate or trust in the United States the letter of notification prescribed in § 517.3(b).

§ 517.7 Release of excess tax withheld at source.

(a) Amounts to be released—(1) Dividends paid by a foreign company managed and controlled in Pakistan. If United States tax at the statutory rate has been withheld on or after January 1, 1959, from dividends paid by a foreign company whose business is managed and controlled in Pakistan to a recipient other than a citizen or resident or corporation of the United States, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal fo the tax so withheld.

(2) Dividends paid to a Pakistan parent company. If United States tax at the statutory rate has been withheld on or after January 1, 1959, from dividends entitled to the reduced rate of 15 percent in, accordance with § 517.2(a) (2), the withholding agent shall, if furnished the authorization of release prescribed in § 517.2(b) (2) (ii) or (3) (v), release and pay over to the company from which the tax was withheld an amount which is equal to the difference between the tax so withheld from income received by the taxpayer in a taxable year beginning on or after January 1, 1959, and the tax required to be withheld from such income pursuant to § 517.2(b) (2) (i).

(3) Patent and copyright royalties, pensions, and annuities. If a taxpayer furnishes to the withholding agent the authorization of release prescribed in \$517.3(b) (2) or \$517.4(c) (2) and United States tax has been withheld at the statutory rate on or after January 1, 1959, from the royalties, pensions, or annuities in respect of which such authorization is prescribed, the withholding agent shall release and pay over to the person from whom the tax was withheld an amount which is equal to the tax so withheld from income received by the taxpayer in a taxable year beginning on or after January 1, 1959.

(4) Interest paid to the State Bank of Pakistan. If United States tax at the statutory rate has been withheld on or after January 1, 1959, from interest of the State Bank of Pakistan, the withholding agent shall release and pay over to that bank an amount which is equal to the tax so withheld.

(b) Amounts not to be released. The provisions of this section do not apply to excess tax withheld at source which has been paid by the withholding agent to the Director of International Operations, Internal Revenue Service.

(c) Statutory rate. As used in this section, the term "statutory rate" means the rate of tax required to be withheld in accordance with chapter 3 of the Internal Revenue Code of 1954 as though the convention had not come into effect,

§ 517.8 Information to be furnished in ordinary course.

For provisions relating to the exchange of information under Article XVI of the convention, see § 1.1461-2(d) of this chapter (Income Tax Regulations; 26 CFR 1.1461-2(d)).

§ 517.9 Application of the convention to fiscal years.

Since the convention is effective for taxable years beginning on or after January 1, 1959, the fact that the exemption from, or reduction in the rate of, withholding of United States tax at source authorized by §§ 517.1 to 517.9 is made effective beginning January 1, 1959, is not a determination in itself that the item of income concerned is entitled to the benefit of the exemption from, or reduced rate of, United States tax granted by the convention.

Because it is necessary to bring into effect at the earliest practicable date the

rules of this Treasury decision respecting release of excess tax withheld, and exemption from, or reduction in the rate of, withholding of tax, it is hereby found that it is impracticable to issue this Treasury decision with notice and public procedure thereon under section 4(a) of the Administrative Procedure Act, approved June 11, 1946, or subject to the effective date limitation of section 4(c) of that Act.

[SEAL]

CHARLES I. FOX, Acting Commissioner of Internal Revenue.

Approved: December 9, 1959.

Fred C. Scribner, Jr.,
Acting Secretary of the Treasury.

[F.R. Doc. 59-10584; Filed, Dec. 14, 1959; 8:54 a.m.]

Title 29—LABGR

Chapter IV—Bureau of Labor-Management Reports, Department of Labor

PART 403—LABOR ORGANIZATION ANNUAL FINANCIAL REPORT

PART 415—LABOR ORGANIZATION ANNUAL FINANCIAL REPORT— FISCAL YEAR ENDING PRIOR TO DECEMBER 16, 1959

Correction and Redesignation

In Federal Register Document 59– 10446 appearing in the issue for Wednesday, December 9, 1959, at page 9931, make the following editorial correction:

In the second paragraph of the prefatory statement, on page 9931, and in the first paragraph of § 403.1, the date "December 31, 1959" shall be changed to "December 16, 1959."

Chapter IV, Title 29, Code of Federal

Chapter IV, Title 29, Code of Federal Regulations, is hereby amended by redesignating Part 403 thereof, pursuant to the authority therein cited, as Part 415 and by amending the title thereof to read "Labor Organization Annual Financial Report—Fiscal Years Ending Prior to December 16, 1959," and by redesignating the sections in such part from §§ 403.1 to 403.7, both inclusive, to §§ 415.1 to 415.7, both inclusive, and by effecting a similar redesignation in the reference to sections of the part under the title "Authority."

Since this amendment only effects an editorial change and does not amend the substance of the aforesaid regulation, public participation and delayed effective date are not required for its promulgation by the Administrative Procedure Act, and it shall become effective upon publication in the Federal Register.

Signed at Washington, D.C., this 10th day of December 1959.

James T. O'Connell, Acting Secretary of Labor.

[F.R. Doc. 59-10578; Filed, Dec. 14, 1959; 8:52 a.m.]

No. 243----2

Chapter V—Wage and Hour Division,
Department of Labor

PART 694—MINIMUM WAGE RATES IN INDUSTRIES IN VIRGIN IS-LANDS

Wage Order Giving Effect to Recommendations

Pursuant to section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062, as amended; 29 U.S.C. 205), the Secretary of Labor by Administrative Order No. 522 (24 F.R. 8447), as amended by Administrative Order No. 527 (24 F.R. 9207), appointed and convened Special Industry Committee No. 6 for the Virgin Islands and referred to it and duly noticed a hearing on the question of the minimum wage rate or rates to be paid under section 6(c) of the Act to employees in the Virgin Islands who are engaged in commerce or in the production of goods for commerce. There was not referred to the committee the wage rate fixed for the air transportation industry (23 F.R. 2375) which had reached the objective of the minimum wage prescribed in paragraph (1) of section 6(a) of the Act.

Subsequent to an investigation and a hearing conducted pursuant to the notice, the committee filed with the Administrator a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938, as amended (52 Stat. 1064, as amended; 29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (64 Stat. 1263; 3 CFR, 1950 Supp., p. 165), and General Order No. 45-A (15 F.R. 3290) of the Secretary of Labor, the recommendations of the committee are hereby published in this order amending 29 CFR Part 694, except §§ 694.1(g) and 694.2(g) thereof, effective December 30, 1959, to read as follows:

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694.1 Definition of industries in the Virgin Islands.

694.2 Wage rates.

694.3 Notices.

AUTHORITY: §§ 694.1 to 694.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U.S.C. 208. Interpret or apply sec. 5, 52 Stat. 1062, as amended; 29 U.S.C. 205; sec. 6, 52 Stat. 1062, as amended; 29 U.S.C. 206.

§ 694.1 Definition of the industries in the Virgin Islands.

The industries in the Virgin Islands to which this part shall apply are hereby defined as follows:

(a) Alcoholic beverages and industrial alcohol industry. This industry shall include the manufacture of alcoholic beverages, including, but not by way of limitation, the distilling, rectifying, blending, or bottling or rum, gin, whisky, brandy, liqueurs, cordials, wine, and beer, and the manufacture of industrial and other types of alcohol.

(b) Banking, real estate, accounting, and insurance industry. This industry shall include the business carried on by any banking, insurance, financial, real

estate, or accounting firm, institution, agency, or enterprise.

(c) Bay rum and other toilet preparations industry. This industry shall include the manufacture, including bottling and packaging, of bay oil, bay rum, perfumes, colognes, toilet waters, and other toilet preparations.

(d) Fruit and vegetable packing, farm products assembling, and meat packing industry. This industry shall include:

(1) The assembling and preparing for market of fresh fruits, vegetables, and other related products; and

(2) The slaughtering of meat animals and the dressing and packing of meat, and all operations incidental thereto.

(e) Jewelry, pen, thermometer, industrial belting, and miscellaneous metal products industry. This industry shall include the manufacture of precious and costume jewelry, wat; hands, cigarette lighters, scissors, fishing rods and reels, binoculars, ball point pens, thermometers, metal floor dividers, industrial belting, and parts therefor.

(f) Shipping, marine transportation, and ship and boat building industry.

This industry shall include:

(1) The transportation of passengers and cargo by water, and all activities in connection therewith, including, but without limitation, the operation of terminals, piers, wharves, and docks, including bunkering, stevedoring, storage, and lighterage operations, and the operations of tourist bureaus, and travel and ticket agencies; and

(2) The building, repairing, and maintenance of ships and boats, and the manufacture and repairing of sails, rope, fenders, and other marine equipment.

(g) Air transportation industry. This industry shall include the transportation of passengers and cargo by air, and all activities in connection therewith.

(h) Wholesale distribution, trucking, construction, communications and public utilities industry. This industry shall include:

(1) The wholesaling, warehousing, and other distribution of commodities, including, but without limitation, the activities of importers, exporters, wholesalers, public warehouses, and brokers and agents (except realty and financial), including manufacturers' selling agencies;

(2) The activities carried on by any common or contract carrier engaged in the transportation of property by motor vehicle:

(3) The designing, construction, reconstruction, alteration, repair, and maintenance of buildings, structures, and other improvements, including, but without limitation, factories, highways, bridges, sewers and water mains, irrigation canals and pipe lines, harbors, and airfields; the assembling at the construction site and the installation of machinery and other facilities in or upon such buildings, structures, and improvements; and the dismantling, wreck-

¹This classification was established by wage order effective April 26, 1958 (23 FR. 2375).

ing or other demolition of such improvements and facilities;

(4) The activities carried on by any radio or television system of communication or by any messenger service; and

(5) The activities carried on by any public utility enterprise engaged in the furnishing of such services as the transmission of messages, the operation of a telephone system, the generation or distribution of electric power, the manufacture or distribution of gas, the storage or distribution of water, or any similar service.

(i) Miscellaneous industries. These industries shall include the manufacture of all products and all other activities except those included in the definitions of the alcoholic beverages and industrial alcohol industry, the banking, real estate, accounting, and insurance industry, the bay rum and other toilet preparations industry, the fruit and vegetable packing, farm products assembling, and meat packing industry, the jewelry, pen, thermometer, industrial belting, and miscellaneous metal products industry, the shipping, marine transportation, and ship and boat building industry, the air transportation industry and the wholesale distribution, trucking, construction, communications, and public utilities industry as defined herein.

§ 694.2 Wage rates.

(a) Wages at a rate of not less than 65 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in alcoholic beverages and industrial alcohol industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(b) Wages at a rate of not less than \$1.00 an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the banking, real estate, accounting, and insurance industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(c) Wages at a rate of not less than 80 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the bay rum and other toilet preparations industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(d) Wages at a rate of not less than 45 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the fruit and vegetable packing, farm products assembling, and meat packing industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(e) Wages at a rate of not less than 65 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the jewelry, pen, thermometer, industrial belting, and miscellaneous metal products industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(f) Wages at a rate of not less than \$1.00 an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the shipping, marine transportation, and ship and boat building industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(g) Wages at a rate of not less than \$1.00 an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the air transportation industry in the Virgin Islands who is engaged in commerce or in the production

of goods for commerce.2

(h) Wages at a rate of not less than 77 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the wholesale distribution, trucking, construction, communications and public utilities industry in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

(i) Wages at a rate of not less than 60 cents an hour shall be paid under section 6 of the Fair Labor Standards Act of 1938 by every employer to each of his employees in the miscellaneous industries in the Virgin Islands who is engaged in commerce or in the production of goods for commerce.

§ 694.3 Notices.

Every employer subject to the provisions of § 694.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 694.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor, and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D.C., this 8th day of December 1959.

> CLARENCE T. LUNDQUIST, Administrator.

[F.R. Doc. 59-10581; Filed, Dec. 14, 1959; 8:53 a.m.]

PART 699-TEXTILE AND TEXTILE PRODUCTS INDUSTRY IN PUERTO RICO

Correction

In Federal Register Document 59-10084, appearing in the issue for Tuesday, December 1, 1959, at page 9585, make the following change:

In the paragraph entitled "Authority". on page 9585, the reference in the first line to section "699.2" shall be changed to "699.3".

Signed at Washington, D.C., this 7th day of December 1959.

> CLARENCE T. LUNDQUIST, Administrator.

[F.R. Doc. 59-10567; Filed, Dec. 14, 1959; 8:49 a.m.]

Title 38—PENSIONS, BONUSES, AND VETERANS' RELIEF

Chapter I-Veterans Administration PART 1—GENERAL PROVISIONS

Eligibility for and Disposition of the United States Flag for Burial Pur-

In § 1.10, paragraphs (a) (1) (v) and (b) (1) are amended to read as follows:

§ 1.10 Eligibility for and disposition of the United States Flag for burial pur-

(a) Eligibility for burial flags—(1) Person's eligible. * * *

(v) Any person who served in the organized military forces of the Commonwealth of the Philippines while such forces were in the service of the Armed Forces of the United States pursuant to the military order of the President of the United States, dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who dies after separation from such service under conditions other than dishonorable, on or after April 25, 1951 (38 U.S.C. 107(a)).

(b) Disposition of burial flags. (1) When a flag is actually used to drape the casket of a deceased veteran, it must be delivered to the next of kin following interment. Where the flag is not claimed by the next of kin it may be given upon request to a close friend or associate of the deceased veteran. Such action will constitute final and conclusive determination of rights under this section. (38 U.S.C. 901).

(72 Stat. 1114; 38 U.S.C. 210)

This regulation is effective December 15, 1959.

[SEAL]

BRADFORD MORSE, Deputy Administrator.

[F.R. Doc. 59-10588; Filed, Dec. 14, 1959; 8:54 a.m.]

-PUBLIC CONTRACTS Title 41-

Chapter II—Division of Public Contracts, Department of Labor

PART 202-MINIMUM WAGE **DETERMINATIONS**

Final Decision Determining Prevailing Minimum Wages in Evaporated Milk Industry

This matter is before me for decision on exceptions which have been filed to the tentative decision (24 F.R. 2401) determining prevailing minimum wages in the evaporated milk industry under the Walsh-Healey Public Contracts Act (49 Stat. 2036, as amended; 41-U.S.C.

Exceptions have been filed by the Evaporated Milk Association, Carnation

²This wage rate was established by wage order effective April 26, 1958 (23 F.R. 2375).

Company, Defiance Milk Products Company, the United Dairy Company, American Stores Dairy Co., Gehl Guernscy Farms Inc., The Page Milk Company, and the Westerville Creamery Co. They are directed at (a) the area for which the minimum wage is determined. (b) the minimum wage which is found to be prevailing, and (c) the tolerance permitted for probationary workers, by the tentative decision. Many of these exceptions and supporting arguments were advanced prior to, and are considered and rejected in the tentative decision. I remain unpersuaded by them, and my reasons are those expressed in the tentative decision.

The association contends that only "awards" of Government contracts, as distinguished from "bids", should be considered in deciding the locality or localities for which determination should be made. It objects to the fact that the pertinent evidence does not compare the value of each award, and argues for a different conclusion on this issue based on its Exhibit N, first submitted after the hearing and record were closed.

Exhibit N cannot be considered, because, to do so, would deprive other parties to the hearing of their rights to cross-examine and submit rebuttal evidence concerning it, as provided in section 7(c) of the Administrative Procedure Act governing these proceedings. The evidence supporting the tentative decision that there is industry-wide competition for Government contracts for evaporated milk treats of the number of bids and awards for each of the several areas of origin and destination. rather than the value of each. This evidence demonstrates that at the time competitive bids are invited, the locality in which the evaporated milk will be produced cannot be determined any more narrowly than all the area in which the industry has its condenseries. Since it is the area or areas of competition which must thus be measured in deciding the area or areas to be selected for prevailing minimum wage determination, it becomes plain that the tentative decision was correct in examining the areas from which all competitive bids were received, rather than merely the successful bids. This is because the total bids on each procurement, and not awards, measure the competition for it. In sum, none of the arguments relied on by any of the exceptants warrants modification of the finding as to "locality" in the tentative deer ion, and it is made final.

The Association's basic arguments in support of its exception to the finding that the prevailing minimum wage in the includity is \$1.03, were all advanced prior to, and were considered and overruled by the tentative decision. Nothing 1- not presented requiring any change in the terms of such decision on this issue. The additional arguments now made by the other exceptants in support of that exception, even if valid, are irrelevant to the grounds upon which a determination must rest under the Act. It is argued that the determination is not only inflationary, and, therefore, contrary to the Admini trution's policy of combath mandon, but also that it gives

the multi-plant producers an advantage over the single plant producers in competing for government contracts. The exceptants who oppose the determination as inflationary misunderstand the Administration's policy and the Walsh-Healey Public Contracts Act. As pointed out in my recent determination under the Act in the Surgical Instruments and Apparatus Industry (23 F.R. 5875) "The President's appeal clearly is not directed to wages paid by an industry, including its prevailing minimum wages, but to future agreements between management and labor for increases in existing wages resulting in price increases to the public". There is nothing in the record to justify the exceptant's unsupported assumption that, in discharging the statutory mandate of the Act by making applicable to all who sell to the government the prevailing minimum wages already in effect in the industry as a whole, price increase to the public will result. On the contrary, it appears from these exceptants' companion argument that there will not be any price increase to the public. One producer says: "If we were to increase our rates to qualify under the proposed rate it would mean a substantial increase in our costs. This action on our part would put us in a position to continue to bid on the Army requirements, but would put us in a very unfavorable position to remain competitive in the domestic business which takes approximately 85% of our production." The clear implication is that the impact on members of the industry paying less than its prevailing minimum wage would not appear to require or permit a price rise to the public.

Several single plant producers have taken exception to the tentative decision on the ground that the proposed determination will give the multi-plant producers an advantage in competing for government contracts. They argue that if they raise their wage scale in order to qualify for government contracts, they will be at a disadvantage in competing for non-government business since, as a practical matter, they would have to make the higher scale applicable to all their workers, and not merely to those working on government contracts. The multi-plant producer, they contend, can confine its government work to one or two plants and need not conform the wage scales of its plants not engaged in government production to the higher scale in those producing for the government. Thus, the argument continues, the single plant producer must choose between (a) keeping its present scale and foregoing government business or (b) raising its present scale and foregoing non-government business, while multi-plant producer may do both.

The record does not substantiate the assumption, implicit in that argument—that the multi-plant producers now pay less than the prevailing minimum wage determined in the tentative decision to a substantial number of their employees in most of their plants. Nor is there any substantiation in the record for the further assumption that it is more practical for multi-plant producers to confine some of their plants solely to government production than it is for single plant production than it is

ducers to segregate their government production. But regardless of the relative practicalities of either, to accede to exceptants' arguments, is to frustrate the intent of Congress, in enacting the Act, "To impose obligations upon those favored with Government business and to obviate the possibility that any part of our tremendous national expenditures would go to forces tending to depress wages and purchasing power and offending fair social standards of employment" (Perkins v. Lukens Steel Co., 310 U.S. 113. 128).

Another exceptant objects to the determination on the ground that "no consideration whatsoever seems to have been given to the cost of fringe benefits." No evidence was offered by any party, at the hearing or thereafter, as to the nature, extent, value or uniformity of fringe benefits in the industry. The inference is plain that no party believed that such evidence, if at all relevant in this proceeding, would in any way affect the proper conclusions to be drawn from the wage data which was introduced. The bald assertion made by the exceptant that "wide variations in fringe benefits within the industry would create inequities among companies" is not evidence that there are wide variations; nor would such evidence, standing alone, require or even indicate the inference that the variations create inequities.

In their exceptions to the tolerance provided for "probationary workers" in the tentative decision. the Association and one of the other exceptants assert that the term "probationary worker", as used in the survey questionnaire, was misunderstood and misapplied by many of the answering condenseries. They do not refer to any evidence in the record to support their assertions; nor have I been able to find any such evidence. This exceptions is overruled.

All remaining exceptions have been duly considered and are overruled as being without foundation in fact, law, or both.

Accordingly, pursuant to authority vested by the Walsh-Healey Public Contracts Act (49 Stat. 2036; 41 U.S.C. 35 et seq.) Title 41. Code of Federal Regulations Part 202. § 202.40 (41 CFR 202.40) is amended to read as follows:

§ 202.10 Evaporated milk industry.

- (a) Definition. The evaporated milk industry is defined as that industry which manufactures or furnishes evaporated milk.
- (b) Minimum wages The minimum wage for persons employed in the manufacture or furnishing of products of the evaporated milk industry under contracts subject to the Walsh-Healey Public Contracts Act shall be not less than \$1.68 per hour arrived at either on a time or incentive basis.
- (c) Tolerance—Probationary workers may be employed at wares not less than \$1 63 an hour, arrived at either on a time or incentive basis, for a period not to exceed 160 hours. A probationary worker for the purpose of this determination is a new plant employee hired at a rate lower than that established for a specific job during the period of time.

required to receive orientation or initial first-class stations and to outpatient training for that job.

(d) Effect on other obligations, Nothing in this section shall affect any obligations for the payment of minimum wages that an employer may have under any law or agreement more favorable to employees than the requirements of this

(e) This section shall become effective and the minimum wages herein established shall apply to all contracts subject to the Public Contracts Act, bids for which are solicited or negotiations otherwise commenced on and after January 15. 1960.

Signed at Washington, D.C., this 8th day of December 1959.

> JAMES P. MITCHELL, Secretary of Labor.

[F.R. Doc. 59-10579; Filed, Dec. 14, 1959; 8:52 a.m.]

Title 42—PUBLIC HEALTH

Chapter I-Public Health Service, Department of Health, Education, and Welfare

32-MEDICAL CARE FOR PART SEAMEN AND CERTAIN OTHER PERSONS

PART 36-INDIAN HEALTH

Nonbeneficiaries; Charges for Emergency Care and Treatment at Hospitals and Indian Health Facilities of the Service

On page 8381 of the Federal Register of October 15, 1959, there was published a notice of proposed rule making (F.R. Doc. 59-8691) to issue amendments to the regulations governing the treatment of nonbeneficiaries at hospitals and Indian health facilities of the Service. Interested persons were given 30 days in which to submit written data, views or arguments with respect to the proposed amendments.

No data, views or arguments have been received and the proposed amendments are hereby adopted without change.

Effective date. These amendments shall become effective 30 days after publication in the Federal Register but shall not be applicable to patients admitted prior to such effective date.

Dated: November 27, 1959.

[SEAL]

ARNOLD B. KURLANDER. Acting Surgeon General.

Approved: December 8, 1959.

ARTHUR S. FLEMMING. Secretary.

- 1 Section 32.111 is amended to read as follows:
- § 32.111 Conditions and extent of treatment: charges.
- (a) Persons not entitled to treatment by the Service may be provided temporary care and treatment by the Service in case of emergency as an act of humanity. Such temporary care and treatment shall be limited to hospitalization at

treatment at first- and second-class stations.

(b) Persons referred to in paragraph (a) of this section who, as determined by the medical officer in charge, are able to defray the cost of their care and treatment shall be charged for such care and treatment at the following rates (which shall be deemed to constitute the entire charge in each instance): In the case of hospitalization, at the current interdepartmental reimbursable per diem rate as established by the Bureau of the Budget; and, in the case of outpatient treatment, at rates established by the Surgeon General.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 321, 58 Stat. 695, as amended, sec. 322(d), 53 Stat. 696, as amended, sec. 501, 65 Stat. 290; 42 U.S.C. 248, 42 U.S.C. 249(d), 5 U.S.C. 140).

- Part 36 is amended by adding a new § 36.14 which reads as follows:
- § 36.14 Nonbeneficiaries; emergency care and treatment; charges.
- (a) In case of emergency, as an act of humanity, nonbeneficiaries of the Service may be provided temporary care and treatment in hospitals and facilities of the Service which are operated for Indian beneficiaries.
- (b) Persons referred to in paragraph (a) of this section who, as determined by the medical officer in charge, are able to defray the cost of their care and treatment shall be charged for such care and treatment at the following rates (which shall be deemed to constitute the entire charge in each instance): In the case of hospitalization, at the current interdepartmental reimbursable per diem rate as established by the Bureau of the Budget; and in the case of outpatient treatment, at rates established by the Surgeon General.

(Sec. 3, 68 Stat. 674; 42 U.S.C. 2003. Interpret or apply 42 Stat. 208, sec. 1, 68 Stat. 674, sec. 322(d), 58 Stat. 696, as amended, sec. 501, 65 Stat. 290; 25 U.S.C. 13, 42 U.S.C. 2001, 42 U.S.C. 249(d), 5 U.S.C. 140)

[FR. Doc. 59-10591; Filed, Dec. 14, 1959;

Title 43—PUBLIC LANDS: INTERIOR

Chapter I-Bureau of Land Management, Department of the Interior

APPENDIX-PUBLIC LAND ORDERS

[Public Land Order 2024]

[1703433]

CALIFORNIA

Revoking Public Land Order No. 513 of August 12, 1948 and Executive Order No. 5794 of February 5, 1932

By virtue of the authority vested in the President by the act of June 25, 1910 (36 Stat. 847; 43 U.S.C. 141), and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. Public Land Order No. 513 of August 12, 1948, and Executive Order No.

5794 of February 5, 1932, which withdrew the following-described lands in California for use of the State Division of Forestry, for fire control and lookout stations, are hereby revoked:

MOUNT DIABLO MERIDIAN

Public Land Order No. 513

T. 34 N., R. 11 E., Sec. 9, E1/2 NW1/4 NW1/4 and W1/2 NE1/4 NW1/4.

Executive Order No. 5794

T. 30 N., R. 14 E. Sec. 24, W1/2 NW1/4.

The areas described aggregate. 120 acres.

2. The lands in section 9, T. 34 N., R. 11 E., are located about 38 miles north of Susanville, California. Topography is rolling to rough. Vegetation includes sagebrush, mountain mahogany, and cheat grass. The lands in section 24, T. 30 N., R. 14 E., are on top of Shaesfer Mountain, at an elevation of some 6,735 feet. Topography is steep and rocky, with vegetation consisting of sagebrush, cheat and bunch grass.

3. This order shall not become effective to change the status of the lands described in paragraph 1 hereof until 10:00 a.m. on January 13, 1960. At that time they shall become subject to application, petition, location, and selection under the applicable public land laws, subject to valid existing rights and the requirements of applicable law. The State of California has waived the preference right of application granted to it by subsection (c) of section 2 of the act of August 27, 1958 (72 Stat. 928; 43 U.S.C. 851, 852).

4. The lands have been open to applications and effers under the mineral leasing laws, and to location for metalliferous minerals. They will be open to location for nonmetallifierous minerals beginning at 10:00 a.m., on January 13,

Inquiries concerning the lands should be addressed to the Manager Land Office, Bureau of Land Management, Sacramento, California.

FRED G. AANDAHL. Assistant Secretary of the Interior.

DECEMBER 8, 1959.

[F.R. Doc. 59-10561; Filed, Dec. 14, 1959; 8.48 a.m.]

> [Public Land Order 2025] [Idaho 010628]

IDAHO

Revoking the Departmental Order of January 9, 1909, Which Withdrew Land for Use of the Forest Service as an Administrative Site

By virtue of the authority vested in the President by the act of June 4, 1897 (30 Stat. 34, 36; 16 U.S.C. 473), and otherwise, and pursuant to Executive Order No. 10355 of May 26, 1952, it is ordered as follows:

1. The departmental order of January 9, 1909, which withdrew certain lands for use of the Forest Service as an administrative site, is hereby revoked:

Roise Meridian

SALMON NATIONAL FOREST

Meadow Butte Administrative Site

T. 14 N., R. 26 E.,

Sec. 10, E%NW% and W%NE%.

The areas described contain 160 acres. The lands are within the Salmon National Forest, and with the exception of the SE¼NW¼ are withdrawn for power purposes.

2. Subject to any valid existing rights, and the requirements of applicable law, the Said SE¼NW¼ shall be open to such applications, selections, and locations as are permitted on national forest lands effective at 10:00 a.m. on January 13, 1960.

Fred G. Aandahl, Assistant Secretary of the Interior.

DECEMBER 8, 1959.

[F.R. Doc. 59-10562; Filed, Dec. 14, 1959; 8:48 a.m.]

[Public Land Order 2026] [Montana 034067]

MONTANA

Partially Revoking the Departmental Order of January 19, 1904 (Milk River Project)

By virtue of the authority vested in the Secretary of the Interior by section 3 of the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. 416), it is ordered as follows:

The departmental order of January 19, 1904, which withdrew lands in Montana for reclamation purposes in the second form in connection with the Milk River project, is hereby revoked so far as it affects the following-described lands:

PRINCIPAL MERIDIAN

T 29 N . R. 39 E.,

Sec. 30, lots 9, 12, and 13.

The areas described contain 80.62 acres.

The lands are in allowed homestead entry Great Falls 053668.

ROYCE A. HARDY, Assistant Secretary of the Interior. DECEMBER 9, 1959.

[FR. Doc. 59-10563; Filed, Dec. 14, 1959; 8:48 a.m.]

Title 49—TRANSPORTATION

Chapter I—Interstate Commerce
Commission

[Docket No. 3666; Order 41]

PARTS 71-78—EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Miscellaneous Amendments

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D.C., on the 1st day of December 1959.

The matter of revision of certain regulations governing the transportation of explosives and other dangerous articles,

formulated and published by the Commission, being under consideration, and

It appearing that Notice No. 41, dated October 13, 1959, setting forth certain proposed amendments to the said regulations, and the reasons therefor, and stating that consideration was to be given thereto, was published in the FEDERAL REGISTER on October 30, 1959 (24 F.R. 8849), pursuant to the provisions of section 4 of the Administrative Procedure Act; that pursuant to said notice interested parties were given an opportunity to be heard with respect to said proposed amendments; that written views or arguments were submitted to the Commission with respect to the proposed amendments;

And it further appearing that said views and arguments with respect to the proposed amendments are such as to warrant revision at this time of certain of the proposed amendments, and that in all other respects the proposed amendments set forth in the above referred to Notice No. 41 are deemed justified and necessary:

It is ordered, That the aforesaid regulations governing the transportation of explosives and other dangerous articles be, and they are hereby, amended in the manner and to the extent set forth in Notice No. 41, dated October 13, 1959, as revised by the specific deletions and modifications set forth as follows:

- 1. Revise the amendment of paragraph (h) of § 73.22 to include the order date.
- 2. Delete the entire proposed amendment to § 73.128 which is paragraph (a) (3).
- 3. Delete the entire proposed amendment to § 73.132 which is paragraph (a) (2).
- 4. In § 73.264 paragraph (a) (4) change the number in the last line to read "55" instead of "52."

6. Delete the entire proposed amendment to § 78.83-5 which is paragraph

7. Delete the entire proposed addition of § 78.246.

It is further ordered, That this order shall become effective February 28, 1960, and shall remain in effect until further order of the Commission;

It is further ordered. That compliance with the herein prescribed and amended regulations is hereby authorized on and after the date of service of this order;

It is further ordered, That copies of this order be served upon all parties of record herein, and that notice shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy thereof with the Director, Office of the Federal Register. (62 Stat. 738, 18 U.S.C. 831-835; 49 Stat. 546, 52 Stat. 1237, 54 Stat. 921, 49 U.S.C. 304)

By the Commission, Division 3.

[SEAL] HAROLD D. McCOY,
Secretary.

PART 72—COMMODITY LIST OF EX-PLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIP-PING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71–78 OF THIS CHAPTER

Amend § 72.5 Commodity List (18 F.R. 801, Feb. 7, 1953) (15 F.R. 8266, 8271, 8272, Dec. 2, 1950) as follows:

§ 72.5 List of explosives and other dangerous articles.

(a) · · ·

5. Revise the amendatory text to § 73.307 and delete the amendment to paragraph (a)(1).

Article	Classed as—	Exemptions and packing (see sec.)	Label required If not exempt	Maximum quan- tity in 1 outside container by rail express
(Change)				
Calcium hypochlorite compounds, dry, containing more than 39 percent available chlorine.	Oxy. M	73.153, 73.217	Yellow	100 pounds,
Difluoroethane	F.G	73,302, 73 308, 73,314, 73 315,	Red Gas	300 roun ls.
*Rough ammoniate tankages	F.S	No exemption, 73.153(c) (59), 73.210.	Yellow	Not accepted.
*Tankage fertilizers	F.S	No exemption, 73 153(c) (49), 73.209.	Yellow	Not accepted.
*Tankages, rough ammoniate	F.S	No exemption, 73.152(c)(50), 73.210.	Yellow	Not accepted.
(Add) Decaborane				
Decaborane	F.S	No exemption, 73 236	Yellow	25 pounds.
Dispersant gas, n.o.s	F.O	73 302, 73 306, 73 314.	Red Gas	300 pounds.
Refrigerant gas, n.o.s	F.G		Red Gas	300 pounds.

PART 73-SHIPPERS

Subpart A—Preparation of Articles for Transportation by Carriers by Rail Freight, Rail Express, Highway, or Water

In § 73.22 add paragraph (h) (15 F.R. 8277, Dec. 2, 1950) to read as follows:

§ 73.22 Specification containers prescribed.

(h) Aluminum drums complying with Spec. 42G, manufactured prior to February 28, 1960, may be continued in service, provided they are plainly marked ICC-42G, are embossed with maker's

name or symbol, gauge of metal, capacity, year of manufacture, and are capable of withstanding the leakage test prescribed by § 78.111-11 of this chapter.

In § 73.28 amend the introductory text of paragraph (a) (23 F.R. 2322, April 10, 1958) to read as follows:

§ 73.28 Reused containers.

(a) Containers used more than once (refilled and reshipped after having been previously emptied) must be in such condition, including closing devices and cushioning materials, that they will protect their contents during transit as efficiently as new containers. Repairs must be made in an efficient manner in accordance with requirements for materials and construction as prescribed in Part 78 of this chapter for new containers and parts that are weak, broken, or otherwise deteriorated must be replaced (see paragraphs (e), (f), (g), (h), and (i) of this section for containers that cannot be reused).

In § 73.34 amend the introductory text of paragraph (j); amend paragraph (k) table and paragraph (k) (1); add paragraph (k) (14) (15 F.R. 8283, 8284, Dec. 2, 1950) (21 F.R. 7598, Oct. 4, 1956) (17 F.R. 1558, Feb. 20, 1952) to read as follows:

§ 73.34 Qualification, maintenance, and use of cylinders.

(j) Quinquennial retest of cylinders. Each cylinder, except as specifically provided in paragraph (k) of this section, must be subjected, at least once in five years, to a test by interior hydrostatic pressure in a water jacket, or other apparatus of suitable form, for the determination of the expansion of the cylinder. The test apparatus must be approved as to type and operation by the Bureau of Explosives. This periodic retest must include a visual internal and external examination, except that the internal inspection may be omitted for cylinders of the type and in the service described under paragraph (k)(11) of this section: Provided, That without regard to date of previous test, cylinders of ICC-4 (§ 78.48 of this chapter) type that show bad dents or other evidence of rough usage, or that are corroded locally to such extent as to indicate possible weakness, or that have lost as much as 5 percent of their official tare weight, must be retested before being again charged and shipped. After any retest, the actual tare weight for those cylinders passing the test may be recorded as their new official tare weight.

(k) • • •

Specification under which cylinders were made	Minimum retest pressure (pounds per square inch)
(.1dd) ICC-311T	5/3 times the service pressure. (See § 73.30 (g-) (See § 73.34 (k):11) for additional retest requirements for ICC 3HT cylinders.)

Exceptions. (1) All cylinders, except Specification ICC-3HT (\$78.44 of this chapter) cylinders, not exceeding 2 inches outside di-

ameter and length less than two feet are exempted from retest.

(14) In addition to the requirements of paragraph (j) of this section, cylinders marked ICC-3HT shall comply with the following:

(1) Cylinders shall be subjected, at least once in three years, to a test by hydrostatic pressure in a water jacket, for the determination of the expansion of the cylinder. A cylinder must be condemned if the elastic expansion exceeds the original elastic expansion by more than 5 percent.

(11) A cylinder must be condemned if

(ii) A cylinder must be condemned if there is evidence of any denting or bulging. (iii) A cylinder must be condemned at the termination of a 12-year period following the date of the original test or after 4,380 pressurizations (12 x 365), whichever comes first. If a cylinder is recharged more than once a day, an accurate record of the number of such rechargings must be maintained.

Subpart B—Explosives; Definitions and Preparation

In § 73.53 amend paragraph (h)(1) Note 4 (15 F.R. 8286, Dec. 2, 1950) to read as follows:

§ 73.53 Definition of class A explosives.

(h) • • • (1) • • •

Note 4: The Bureau of Explosives Impact Apparatus is a testing device designed so that a guided 8-pound weight may be dropped from predetermined heights so as to impact specific quantities of liquid or solid materials under fixed conditions. Detailed prints may be obtained from the Bureau of Explosives, 63 Vesey Street, New York 7, New

Subpart C—Flammable Liquids; Definition and Preparation

In § 73.125 add paragraph (a) (6) (15 F.R. 8301, Dec. 2, 1950) to read as follows:

§ 73.125 Alcohol.

(a) • • •

(6) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside polyethylene bottles, not over 1-gallon capacity each, suitably cushioned to prevent movement within the box.

Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

In § 73.150 amend paragraph (a) (15 F.R. 8302, 8303, Dec. 2, 1950) to read as follows:

§ 73.150 Flammable solid; definition.

(a) A flammable solid, for the purpose of Parts 71-78 of this chapter, is any solid material, other than one classified as an explosive, which, under conditions incident to transportation, is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes, retained heat from manufacturing or processing, or which can be ignited readily and when ignited burns so vigorously and persistently as to create a serious transportation hazard. Examples: certain metallic hydrides, metallic sodium and potassium, and certain oily fabrics, processed meals, and nitroceilulose products.

In § 73.153 amend paragraph (b) and add paragraph (c) (69) (22 F.R. 7836, Oct. 3, 1957) (15 F.R. 8303, Dec. 2, 1950) to read as follows:

§ 73.153 Exemptions for flammable solids and oxidizing materials.

(b) Liquid or solid organic peroxides, except acetyl benzoyl peroxide, solid, and benzol peroxide, in strong outside containers having not over 1 pint or 1 pound net weight of the material in any one such package, having inside containers securely packed and cushioned with incombustible cushioning are, unless otherwise provided, exempt from specification packaging, marking, and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

(c) • • • (69) Decaborane.

In § 73.195 amend paragraph (a) (4) (15 F.R. 8309, Dec. 2, 1950) to read as follows:

§ 73.195 Pyroxylin plastic scrap, photographic film scrap, X-ray film scrap, motion-picture film scrap, or pieces of exposed or unexposed film.

(a) • • •

(4) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes. Use of this container will be permitted because of the present emergency and until further order of the Commission.

In § 73.206 amend paragraph (c)(1) (21 F.R. 7600, Oct. 4, 1956) to read as follows:

§ 73.206 Sodium or potassium, metallic, sodium amide, sodium potassium alloys, lithium metal, lithium silicon, lithium hydride, and lithium aluminum hydride.

(c) * * *

(1) Spec. 105A300-W (§ 78.286 of this chapter). Tank cars, having exterior heater coils fusion welded to tank shell and properly stress-relieved, the material to be in molten condition when loaded into the tank and allowed to solidify before car is offered to the carrier. Outage must be 5 percent or more for sodium at fusion temperature of

In § 73.229 add paragraph (b) (5) (22 F.R. 2226, Apr. 4, 1957) to read as follows:

§ 73.229 Chlorate and borate mixtures or chlorate and magnesium chloride mixtures.

(b) • • •

(5) Strong fiberboard boxes with not more than 4 inside paper bags spec. 2D (§ 78.23 of this chapter), having net weight not over 10 pounds each.

Add § 73.236 (15 FR. 8312, Dec. 2, 1950) to read as follows:

§ 73.236 Decaborane.

(a) Decaborane must be packed in specification containers as follows:

(1) Spec. 6A, 6B or 6C (§§ 78.97, 78.98 or § 78.99 of this chapter). Metal barrels or drums.

(2) Spec. 17C, 17E, 17H, 37A, or 37B (§§ 78.115, 78.116, 78.118, 78.131, or § 78.132 of this chapter). Metal drums (single-trip).

(3) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside containers which must be metal cans; sliding-lid wooden boxes; fiber cans or boxes, spec. 2G (§ 78.26 of this chapter), not over 5 pounds capacity each; or glass bottles not over 1 pound capacity each. Packages containing glass containers must not weigh over 65 pounds gross.

Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation

In § 73.240 amend the heading and paragraph (a) (15 F.R. 8312, Dec. 2, 1950) to read as follows:

§ 73.240 Corrosive liquids; definition.

(a) Corrosive liquids, for the purpose of parts 71-78 of this chapter, are acid or alkaline liquids containing 10 percent or more free mineral acid, or 10 percent or more free caustic soda, or other liquids which are of equally corrosive nature, or liquids which, under conditions incident to transportation will by contact, cause severe damage to living tissue through chemical action, cause severe damage to other lading by chemical action, or cause fire upon contact with other lading. The foregoing shall not include any liquid which experience has shown does not create a serious corrosive hazard in transportation.

In § 73.264 add paragraph (a) (4) (21 F.R. 7601, October 4, 1956) to read as follows:

§ 73.264 Hydrofluoric acid.

(a) • • •

(4) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with not more than 4 inside polyethylene bottles not over 1-gallon nominal capacity each. Shipper must have established that completed package meets test requirement prescribed by § 78.210-10 of this chapter. Authorized for acid not over 55 percent strength.

In \$ 73.265 amend paragraph (d)(4) (23 F.R. 2326, April 10, 1958) to read as follows:

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§ 73.265 Hydrofluosilicic acid.

(d) • • •

(4) Spec. 37P (§ 78.133 of this chapter). Steel drums, not over 5-gallons capacity, with polyethylene liner (non-reusable container).

In § 73.266 add paragraph (c) (9) (15 F.R. 8318, Dec. 2, 1950) to read as follows:

§ 73.266 Hydrogen peroxide solution in water.

(c) • • •

(9) Spec. 12A (§ 78 210 of this chapter). Fiberboard boxes with inside glass

or polyethylene bottles, not over 1-gallon capacity each. Each bottle closure must be vented and each bottle completely contained in a securely closed polyethylene bag or tube constructed of material having minimum film thickness of 0.003 inch. Shipper must have established that completed package meets test requirements prescribed by § 78.210–10 of this chapter.

Subpart F—Compressed Gases; Definition and Preparation

In § 73.307 add paragraph (a) (2) (15 F.R. 8326, Dec. 2, 1950) to read as follows:

§ 73.307 Nonliquefied gases, except gas in solution or poisonous gas.

(a) • • •

(2) Spec. 3HT (§ 78.44 of this chapter) cylinders are authorized for non-flammable gases, for aircraft use only, for a maximum service life of 12 years, and must be equipped with safety relief devices as required by § 73.34(f). Only a frangible disc safety relief device, without fusible metal backing, shall be used with Specification ICC-3HT cylinders and the rated bursting pressure of the disc shall not exceed 90 percent of the minimum required test pressure of the cylinder with which the device is used.

In § 73.308 amend paragraph (a) table and add paragraph (a) Note 15 (19 F.R. 8527, Dec. 14, 1954) (21 F.R. 7602, Oct. 4, 1956) (15 F.R. 8327, Dec. 2, 1950) to read as follows:

§ 73.308 Compressed gases in cylinders.

(a) • • •

Kind of gas	Maximum permitted filling den- sity (see Note 12)	Cylinders (see Note 11) marked as shown in this column must be used except as provided in Note 1 and § 73.34 (a) to (c).
· (Change)	Percent	
Carbon dioxide, liquefied (see Notes 3, 5, and 15)	63	ICC-3A1800; ICC-3AA1800; ICC-3; ICC-3HT2000.
Carbon dioxide-nitrous oxide mixtures (see Note 15).	68	ICC-3A1800; ICC-3AA1800; ICC-3; ICC-31T2000.
Liquefied nonflammable gases, liquids other than those classified as flammable, corrosive, or po'son- ous, and mixtures or solutions thereof, charged with nitrogen, carbon dioxide, or air (see Notes 10 and 15).	. ც)	ICC-3A300; ICC-3AA300; ICC-3HT900; ICC-4B300; ICC-4BA300; ICC-4D300; ICC-4DA500.
Nitrous oxide (see Notes 2 and 15)	68	ICC-3A1900; ICC-3AA1800; ICC-3; ICC-3HT2000.

Note 15: Specification 3HT (§ 78.44 of this chapter) cylinders are authorized for alteralt use only, for a maximum service life of 12 years, and must be equipped with safety relief devices as required by § 73.34(f). Only a frangible disc safety relief device, without fusible metal backing shall be used with Specification ICC-3HT cylinders and the rated bursting pressure of the disc shall not exceed 90 percent of the minimum required test pressure of the cylinder with which the device is used.

failure.

In § 73.314 amend paragraph (a) Table (22 F.R. 4791, July 9, 1957) to read as follows:

§ 73.314 Compressed gases in tank cars. (a) • • •

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(Change)		
Diffuoroethane	73	ICC-106A500, 106A500X, 110A500-W, Notes 12
	84	and 19. ICC-105A300-W.

In § 73.315 amend paragraph (a)(1) Table (23 F.R. 2327, April 10, 1958) to read as Lilows:

§ 73.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

-	Maximum permitted filling density		Specification con- tainer required	
Kind of gas	Percent by weight (see Note	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Mini- mum design pres- sure (psig)
(Add)				
Diffuoroethane.	79	Sec Note 7.	MC-330.	150

Subpart G—Poisonous Articles; Definition and Preparation

In § 73.346 amend paragraph (a) (20) and add paragraph (a) (23) (24 F.R. 906, Feb. 6, 1959) (15 F.R. 8335, Dec. 2, 1950) to read as follows:

§ 73.346 Poisonous liquids not specifically provided for.

(a) * * * (20) Spec. 5B or 6J (§ 78.82 or § 78.100 of this chapter). Steel barrels or drums having inside spec. 2S (§ 78.35 of this chapter) polyethylene drums. Gross weight restriction indicated by gross weight embossment on steel barrels or drums shall be waived. Authorized only for materials that will not react with polyethylene and result in container

(23) Spec. 42G (§ 78.111 of this chapter). Aluminum drums.

In § 73.370 amend paragraph (c)(1) (21 F.R. 4433, June 23, 1956) to read as follows:

§ 73.370 Cyanides, or cyanide mixtures, except cyanide of calcium and mixtures thereof.

(c) • • •

(1) As prescribed in paragraph (a) (2), (3), (4), (6), (9), (10) or (11) of this section.

RULES AND REGULATIONS

PART 74—CARRIERS BY RAIL FREIGHT

In § 74.506 amend the introductory text of paragraph (a) (18 F.R. 804, Feb. 7, 1953) to read as follows:

§ 74.506 Improperly packed or damaged shipments in transportation.

(a) For the protection of the public against fire, explosion, or other, or further hazard with respect to shipments of explosives or other dangerous articles offered for transportation or in transit by any carrier by railroad, such carrier shall make immediate report to the Bureau of Explosives, 63 Vesey Street, New York 7, New York, for handling any of the following emergency matters coming to their attention:

PART 78—SHIPPING CONTAINER SPECIFICATIONS

Subpart A—Specifications for Carboys, Jugs in Tubs, and Rubber Drums

In § 78.10-3 amend paragraph (b) (17 F.R. 7283, Aug. 9, 1952) to read as follows:

§ 78.10 Specification 1F; polyethylene carboys in plywood drums.

§ 78.10-3 Polyethylene carboys.

(b) Closing device shall be of material resistant to the lading and adequate to prevent leakage. Opening for closure shall not be over 3½ inches in diameter.

In § 78.11-3 amend paragraphs (a), (b), (c), and (d) (18 F.R. 805, Feb. 7, 1953) (19 F.R. 1281, March 6, 1954) (23 F.R. 7650, Oct. 3, 1958) to read as follows:

§ 78.11 Specification 1G; polyethylene carboys in wooden or glued plywood boxes.

§ 78.11-3 Polyethylene carboys.

(a) Carboys shall be made of polyethylene with no plasticisers or additives and have a maximum melt index value of 2.5 grams per 10 minutes as determined in accordance with method acceptable to the Bureau of Explosives. Carboys must have a minimum weight and wall thickness in accordance with the following table:

Marked capacity not over (gallons)	Minimum wall thick- ness (inch)	Minimum weight of containers (pounds)
5.	116	3
6 ¹ / ₂ .	110	4
13.	516	8

- (b) Closing device shall be of material resistant to the lading and adequate to prevent leakage, and opening for closure shall not be over $3\frac{1}{2}$ inches in diameter.
- (c) Polyethylene carboy, as manufactured and filled to marked capacity with a material which remains in a liquid form, shall be capable of withstanding a 4-foot drop without leakage, after prior conditioning so that contents will be 0° F. or colder, onto solid concrete on any portion of the carboy.

(d) Polyethylene carboys must fit snugly in outside container.

In § 78.13-3 amend paragraph (b) (21 F.R. 675, Jan. 31, 1956) to read as follows:

§ 78.13 Specification 1H; polyethylene carboys in low carbon steel or other equally efficient metal crates.

§ 78.13-3 Polyethylene carboys.

(b) Closing device shall be of material resistant to the lading and adequate to prevent leakage. Opening for closure shall not be over $3\frac{1}{2}$ inches in diameter.

Subpart B—Specifications for Inside Containers, and Linings

In § 78.21-3 amend paragraph (b) (23 F.R. 2329, April 10, 1958) to read as follows:

§ 78.21 Specification 2T, polyethylene containers.

§ 78.21-3 Polyethylene containers.

(b) Closing device shall be of material resistant to the lading and adequate to prevent leakage. Opening for closure shall not be over 3½ inches in diameter.

Subpart C—Specifications for Cylinders

In § 78.37-5 amend paragraph (a) Note 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.37 Specification 3AA; seamless steel cylinders, made of definitely prescribed steels.

§ 78.37-5 Authorized steel.

(a) * * *

NOTE 1: A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

Add § 78.44 (15 F.R. 8399, Dec. 2, 1950) to read as follows:

§ 78.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

§ 78.44-1 Compliance.

(a) Required in all details.

§ 78.44-2 Type, size and service pres-

(a) Type and size. Seamless; not over 150 pounds water capacity (nominal).

(b) Service pressure. At least 900 pounds per square inch.

¹The "service pressure" limits the use of the cylinder. It is shown by marks on cylinder; for example, ICC-3HT2000 indicates the service pressure as 2,000 pounds per square inch § 78.44-3 Inspection by whom and where.

(a) By competent and disinterested inspector acceptable to the Bureau of Explosives; chemical analyses and tests, as specified, to be made within limits of the United States.

§ 78.44—4 Duties of inspector.

(a) Inspect all material and reject any not complying with requirements; for cylinders made by billet-piercing process, billets to be inspected after nick and cold break.

(b) Verify chemical analysis of each heat of material by analysis or by obtaining certified analysis: Provided, That a certificate from the manufacturer thereof, giving sufficient data to indicate compliance with requirements, is acceptable when verified by check analyses of samples taken from one cylinder out of each lot of 200 or less.

(c) Verify compliance of cylinders with all requirements including markings; inspect inside before closing in both ends; verify heat treatment as proper; obtain samples for all tests and check chemical analyses; witness all tests; verify threads by gauge; report volumetric capacity and tare weight (see report form) and minimum thickness of wall noted.

(d) Render complete report (§ 78.44-25) to purchaser, cylinder maker, and the Bureau of Explosives.

§ 78.44-5 Authorized steel.

(a) Open hearth or electric furnace steel of uniform quality. Steel of the following chemical analysis is authorized (see notes 1 and 2):

Designation	AISI 1130 (percent)
Carbon	0.40/0.60. 0.040 maximum 0.040 maximum 0.20/0.35. 0.80/1.10.

NOTE 1: A heat of steel made under the above specification, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American from and Steel Institute Products Manual entitled "Alloy Steel: Semi-finished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded; or provided the variation in chemical analysis is approved by the Bureau of Explosives.

Note 2: Grain size 6 or finer according to ASTM Spec. E19-46.

§ 78.44-6 Identification of material.

(a) Required; any suitable method. Steel stamping of heat identifications shall not be made in any area which will eventually become the side wall of the cylinder. Depth of stamping shall not encroach upon the minimum prescribed wall thickness of the cylinder.

§ 78.44-7 Defects.

(a) Material with seams, cracks, laminations, severe inclusions, numerou, or severe draw marks, or any other injurious defect not authorized.

§ 78.44-8 Manufacture.

(a) By best appliances and methods; dirt and scale to be removed as neces-

sary to afford proper inspection; no fissure or other defect acceptable that is likely to weaken the finished container appreciably; the general surface finish shall not exceed a roughness of 250 RMS. Individual irregularities such as draw marks, scratches, pits, etc., should be held to a minimum consistent with good high stress pressure vessel manufacturing practices. If the cylinder is not originally free of such defects or does not meet the finish requirements, the surface may be machined or otherwise treated to eliminate these defects. The point of closure of cylinders closed by spinning is not to be less than two times the prescribed wall thickness of the cylindrical shell. Cylinder end contour shall be hemispherical or ellipsoidal with a ratio of major to minor axis not exceeding two to one and with concave side to pressure.

§ 78.44-9 Welding or brazing.

- (a) Welding or brazing for any purpose whatsoever is prohibited except as follows:
- (1) Welding by spinning is permitted to close the bottom of spun cylinders. Machining or grinding to produce proper surface finish at point of closure is required.

§ 78.44-10 Wall thickness.

(a) Minimum wall thickness for any cylinder shall be 0.050 inch.

(b) Minimum wall thickness shall be such that the wall stress at the minimum specified test pressure shall not exceed 75 percent of the minimum tensile strength of the steel as determined from the physical tests required in § 78.44–18 and shall not be over 105,000 psi.

(c) Calculations must be made by the formula:

$$S = \frac{P(1.3D^2 + 0.4d^2)}{D^2 - d^2}$$

where

S=wall stress in pounds per square inch;
P=minimum test pressure prescribed for
water jacket test;

D = outside diameter in inches; d = inside diameter in inches.

(d) Wall thickness of hemispherical bottoms only permitted to 90 percent of minimum wall thickness of cylinder sidewall but shall not be less than 0.050 inch. In all other cases, thickness to be no less than prescribed minimum wall,

§ 72.44-11 Heat treatment.

- (a) The completed cylinders must be uniformly and properly heated prior to tests. Heat treatment of the cylinders of the authorized analysis shall be as follows:
- (1) All cylinders must be oil quenched except as noted in subparagraph 4 of this paragraph.
- (2) The steel temperature on quenching shall be that recommended for the steel analysis, but in no case shall it exceed 1750° F.
- (3) The steel shall be tempered at a temperature most suitable for the particular steel analysis but not less than 850° F.
- (4) Quenching in a molten salt bath maintained at a temperature of not less than 375° F. is permitted.

§ 78.44-12 Openings in cylinders and connections (valves, fuse plugs, etc.) for those openings.

(a) Threads required to be clean cut, even, without cracks, and to gauge.

- (b) Taper threads, when used, to be of length not less than as specified for National Gas Tapered Thread (NGT) as required by American Standard Compressed Gas Cylinder Valve Outlet and Inlet Connections.¹
- (c) Straight threads having at least 6 engaged threads are authorized; to have tight fit and a calculated shear stress of at least 10 times the test pressure of the cylinder; gaskets required, adequate to prevent leakage.
- § 78.44-13 Safety devices and protection for valves, safety devices, and other connections, if applied.
- (a) Must be as required by the Interstate Commerce Commission's regulations that apply (see §§ 73,34(f) and 73.301(i) of this chapter).

§ 78.44-14 Hydrostatic test.

(a) By water-jacket, or other suitable method, operated so as to obtain accurate data. Pressure gauge must permit reading to accuracy of 1 percent. Expansion gauge must permit reading of total expansion to accuracy either of 1 percent or 0.1 cubic centimeter.

(b) Pressure must be maintained for 30 seconds and sufficiently longer to insure complete expansion. Any internal pressure applied after heat treatment and previous to the official test must not exceed 90 percent of the test pressure. If, due to failure of the test apparatus, the test pressure cannot be maintained, the test may be repeated at a pressure increased by 10 percent or 100 pounds per square inch, whichever is the lower.

(c) Permanent volumetric expansion must not exceed 10 percent of total volumetric expansion at test pressure.

(d) Each cylinder must be tested to at least 5/3 times service pressure.

§ 78.44-15 Cycling tests.

(a) Prior to the initial shipment of any specific cylinder design, cyclic pressurization tests shall have been performed on at least three representative samples without failure as follows:

(1) Pressurization shall be performed hydrostatically between approximately zero psig and the service pressure at a rate not in excess of 10 cycles per minute. Adequate recording instrumentation shall be provided if equipment is to be left unattended for periods of time.

(b) Tests prescribed in paragraph (a) (1) of this section shall be repeated on one random sample out of each lot of cylinders. Cylinder may then be subjected to burst test.

(c) A lot is defined as a group of cylinders fabricated from the same heat of steel, manufactured by the same process and heat treated in the same equipment under the same conditions of time, temperature, and atmosphere, and shall not exceed a quantity of 200 cylinders.

¹ Available for a nominal charge from the American Standards Association, 70 East 45th Street, New York 17, New York, and the Compressed Gas Association, Inc., 11 West 42d Street, New York 36, New York.

(d) All cylinders used in cycling tests must be destroyed.

§ 78.44-16 Burst test.

(a) One cylinder taken at random out of each lot of cylinders shall be hydrostatically tested to destruction.

§ 78.44-17 Flattening test.

(a) Between knife edges, wedge shaped, 60° angle, rounded to ½ inch radius, test one cylinder taken at random out of each lot of cylinder after hydrostatic test. Axis of cylinder must be at 90° angle to knife edges.

§ 78.44-18 Physical tests.

(a) To determine yield strength, tensile strength, elongation, and reduction of area of material. Required on 2 specimens cut from 1 cylinder taken at random out of each lot of cylinders.

(b) Specimens must be: Gauge length at least 24 times thickness with width not over six times thickness. The specimen, exclusive of grip ends, must not be flattened. Grip ends may be flattened to within one inch of each end of the reduced section. When size of cylinder does not permit securing straight specimens, the specimens may be taken in any location or direction and may be straightened or flattened cold, by pressure only, not by blows; when specimens are so taken and prepared, the inspector's report must show in connection with record of physical tests detailed information in regard to such specimens. Heating of specimen for any purpose is not authorized.

(c) The yield strength in tension shall be the stress corresponding to a permanent strain of 0.2 percent of the gauge length.

(1) The yield strength shall be determined by either the "cffset" method or the "extension under load" method as prescribed in ASTM standard E8-54T.

(2) In using the "extension under

(2) In using the "extension under load" method, the total strain (or "extension under load") corresponding to the stress at which the 0.2 percent permanent strain occurs may be determined with sufficient accuracy by calculating the elastic extension of the gauge length under appropriate load and adding thereto 0.2 percent of the gauge length. Elastic extension calculations shall be based on an elastic modulus of 30,000,000. In the event of controversy, the entire stress-strain diagram shall be plotted and the yield strength determined from the 0.2 percent offset.

(3) For the purpose of strain measurement, the initial strain shall be set while the specimen is under a stress of 12,000 pounds per square inch, the strain indicator reading being set at the calculated corresponding strain.

(4) Cross-head speed of the testing machine shall not exceed ½ inch per minute during yield strength determina-

§ 78.44-19 Magnetic particle inspection.

(a) Inspection shall be performed on inside of container before closing and externally on the finished container after heat treatment. Evidence of discontinuities, which in the opinion of a qualified inspector may appreciably weaken

or decrease the durability of the cylinder, shall be cause for rejection.

§ 78.44-20 Leakage test.

(a) All spun cylinders and plugged cylinders (see Notes 1 and 2) must be tested for leakage by dry gas or dry air pressure after the bottom has been cleaned and is free from all moisture. Pressure, approximately the same as but no less than service pressure, must be applied to one side of the finished bottom over an area of at least 1/16 of the total area of the bottom but not less than 3/4 inch in diameter, including the closure, for at least one minute, during which time the other side of the bottom exposed to pressure must be eovered with water and closely examined for indications of leakage. Leakers must be rejected (see Notes 1, 2, and 3 and § 78.44-22).

Note 1: A spun cylinder is one in which an end closure in the finished cylinder has been welded by the spinning process.

Note 2: A plugged cylinder is one in which a permanent closure in the bottom of a finished cylinder has been effected by a plug.

Note 3: As a safety precaution, if the manufacturer elects to make this test before the hydrostatic test, he should design his apparatus so that the pressure is applied to the smallest area practicable, around the point of closure, and so as to use the smallest possible volume of air or gas.

§ 78.44-21 Acceptable results of tests.

- (a) Flattening required without cracking to ten times the wall thickness of the cylinder.
 - (b) Physical tests:
- (1) Elongation at least 6 percent in gauge length of 24 times wall thickness.
- (2) Tensile strength shall not exceed 160,000 pounds per square inch.
- (c) Burst pressure shall be at least 4/3 times the test pressure.
- (d) Cycling-at least 10,000 pressurizations.

§ 78.44-22 Rejected cylinders.

(a) Reheat treatment authorized; subsequent thereto, acceptable cylinders must pass all prescribed tests. Repair by welding or spinning is not authorized.

§ 78.44-23 Marking.

- (a) Cylinders shall be marked by low stress type steel stamping in an area and to a depth which will insure that the wall thickness measured from the root of the stamping to the interior surface is equal to or greater than the minimum prescribed wall thickness. Stamping must be permanent and legible. Stamping on side wall not authorized. The following markings shall appear:
- (1) ICC-3HT followed by the service pressure (for example, ICC-3HT1800, etc.).
- (2) A serial number and an identifying symbol (letters); location 1 of num-

ber to be just below the ICC mark; location of symbol to be just below the number. The symbol and numbers must be those of purchaser, user, or maker. The symbol must be registered with the Bureau of Explosives; duplications unauthorized.

Example: ICC-3HT1800

- (3) Inspector's official mark near serial number; date of test such as 5-59 for May 1959, so placed that dates of subsequent tests can be easily added; and word "SPUN" or "PLUG" near ICC mark when an end closure in the finished cylinder has been welded by the spinning process, or affected by plug-
- (4) Elastic expansion in cubic centimeters to the nearest 1 percent near the date of test.

§ 78.44-24 Name plates.

(a) Authorized, provided that they can be permanently and securely attached to the cylinder. Attachment by either brazing or welding is not permitted. Attachment by soldering is permitted provided steel temperature does not exceed 500° F.

§ 78.44-25 Inspector's report.

(a) Required to be clear, legible, and in the following form:

(Place)	Exceptions:
Gas Cylinders	
fanufactured for Company	(Signed)
ocation at	(Inspector)
Ianufactured by Company	(Place)
ocation at	(Date)
Consigned to Company	
ocation at	RECORD OF CHEMICAL ANALYSIS OF MATERIAL
Quantity	FOR CYLINDERS
diameter by inches outside diameter by inches long farks stamped into the shoulder of the cylinder are: Specification ICC inclusive Inspector's mark Identifying symbol (registered) est date inches eylinders were made by process of these cylinders were made by process of inches long factors are made by process of inches eylinders were made by process of	Numbered to inclusive Size inches outside diameter by inches long Made by Company For Company Note: Any omission of analyses by heats, if authorized, must be accounted for by notation hereon reading "The prescribed certificate of the manufacturer of material has been secured, found satisfactory, and placed on file," or by attaching a copy of the certificate.

The cylinders were heat treated by the process of _______
The material used was identified by the following ____.

(Heat-purchased order) numbers __

The material used was verified as to chemical analysis and record thereof is attached hereto. The heat numbers (were—were not)

All material, such as plates, billets and seamless tubing, was inspected and each cylinder was inspected both before and after closing in the ends; all that was accepted was found free from seams, cracks, laminations, and other defects which might prove injurious to the strength of the cylinder. The processes of manufacture and heat treatment of cylinders were supervised and found to be efficient and satisfactory.

The cylinder walls were measured and the minimum thickness noted was ____ inch.
The outside diameter was determined by a close approximation to be _____ inches. The wall stress was calculated to be _____ pounds per square inch under an internal pressure of ____ pounds per square inch.

Hydrostatic tests, flattening tests, tensile tests of material, and other tests, as prescribed in specification No. ICC-3HT were made in the presence of the inspector and all material and cylinders accepted were found to be in compliance with the requirements of that specification. Records thereof are attached hereto.

I hereby certify that all of these cylinders proved satisfactory in every way and comply with the requirements of Interstate Commerce Commission specification No. 3HT except as follows:

Exceptions:

(Signed)
(Inspector)
(Place)(Date)
RECORD OF CHEMICAL ANALYSIS OF MATERIAL FOR CYLINDERS
Numbered to inclusive Size inches outside diameter by inches long

Test No.	Heat Check No. analysis	Check	Cylinders represented (Serial Nos.)	Chemical analysis								
	No.	No. analysis No.		o -	P	ន	Si	Mn	Ni	Cr	Mo	Zr

he analyses were made by .	

(Signed)

¹ Symbol in front of or following the number with ample space between is also authorized. Other variation in location authorized only when necessitated by lack of space.

			(Place)			
		ORD OF PHYSICAL	TESTS OF MATE	ERIAL FOR CYLIN	DERS	
Made by	inch					Company
Test No.	Cylinders represented by test (Serial Nos.)	Yield strength at 0.2 percent offset (pounds per square inch)	Tensile strength (pounds per square inch)	Elongation (percent in 8 inches)	Reduction of area (percent)	Flattening test
**						
***************************************	-					
			(Signed)			
			(Place)			
		•	(= m.s,			
		D OF HYDRO				
Made by	inc					Company
	·					

Serial Nos. of cylinders test- ed arranged numerically	Actual test pressure (pounds per square inch)	Total expan- sion (cubic centimeters) ¹	Permanent ex- pansion (cubic centimeters) ¹	Percent ratio of permanent expansion to total expansion ¹	Tare weight (pounds) ²	Volumetric capacity
				~~~~~~~~~	~~~~~	

¹ If the tests are made by a method involving the measurement of the amount of liquid forced into the cylinder by the test pressure, then the basic data, on which the calculations are made, such as the pump factors, temperature of liquid, ecefficient of compressibility of liquid, etc., must also be given.

² Do not include removable cap but state whether with or without valve. These weights must be accurate to a tolerance of I percent.

(Signed).

In § 78.51-20 amend paragraph (a) Table Footnote 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.51 Specification 4BA; welded or brazed steel cylinders made of definitely prescribed steels.

### § 78.51-20 Authorized steel.

(a) * * *

A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other reprovided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

In § 78.56-20 amend paragraph (a) Table Footnote 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.56 Specification 4AA480; welded steel cylinders made of definitely prescribed steels.

 $\S$  78.56–20 Authorized steel.

(a) * * *

A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

In \$78.58-5 amend paragraph (a) Note 1 (21 F.R. 7608, Oct. 4, 1956) to read as follows:

§ 78.58 Specification 4DA; inside containers, welded steel for aircraft use.

§ 78.58-5 Steel.

(a) * * *

Note 1: A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other re spects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explosives.

In § 78.60-4 amend paragraph (a) Table Footnote 1 (21 F.R. 3014, May 5, 1956) to read as follows:

§ 78.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 78.60-4 Authorized steel.

A heat of steel made under any of the above specifications, chemical analysis of which is slightly out of the specified range, is acceptable, if satisfactory in all other respects, provided the standard permissible variations from specified chemical ranges and limits published in the American Iron and Steel Institute Products Manual, "Alloy Steel: Semifinished; Hot Rolled and Cold Finished Bars", dated July 1955, are not exceeded, or provided the variation in chemical analysis is approved by the Bureau of Explo-

#### Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks, and Boxes

In § 78.107-6 amend paragraph (b) (15 F.R. 8446, Dec. 2, 1950) to read as follows:

§ 78.107 Specification 42B; aluminum drums.

*

§ 78.107-6 Parts and dimensions.

.

(b) Rolling hoops must be firmly secured in place and not over 19 inches apart; beading under hoops not permitted. If welding is employed, the welding must be continuous on each edge of hoop.

In § 78.108-6 amend paragraph (b) (15 F.R. 8443, Dec. 2, 1950) to read as follows:

§ 78.168 Specification 42C; aluminum barrels or drums.

*

§ 78.108-6 Parts and dimensions.

*

(b) Rolling hoops must be firmly secured in place and not over 19 inches apart; beading under hoops not permitted. If welding is employed, the welding must be continuous on each edge of hoop.

In § 78.109-6 amend paragraph (b) (15 F.R. 8447, Dec. 2, 1950) to read as follows:

§ 78.109 Specification 42D; aluminum drums.

§ 78.109-6 Parts and dimensions.

(b) Rolling hoops must be firmly secured in place and not over 19 inches apart: beading under hoops not permitted. If welding is employed, the welding must be continuous on each edge of hoop.

Add § 78.111 (15 F.R. 8447, Dec. 2, 1950) to read as follows:

§ 78.111 Specification 42G; aluminum drums.

§ 78.111-1 Compliance.

(a) Required in all details.

§ 78.111-2 Rated capacity.

(a) Rated capacity as marked, see § 78.111-8(a)(3), 55 gallons; actual capacity shall be rated capacity plus at least 2 percent.

#### § 78.111-3 Composition.

(a) Body and heads or drawn shells of aluminum alloy 5052, or an aluminum base alloy of equivalent corrosion resistance and physical properties.

#### § 78.111-4 Outage.

(a) Two percent of rated capacity, plus a maximum tolerance of 2 quarts.

#### § 78.111-5 Seams.

(a) Welded, including attachment of flanges for closures and other devices. Circumferential seam at least 3 inches from top of chime; chime seams not permitted.

#### § 78.111-6 Parts and dimensions.

- (a) Shall be a minimum of 10 Brown and Sharpe gauge (0.102 inch).
- (b) Rolled or swedged-in rolling hoops required.
- (c) Footrings of suitable strength required and must be continuously welded around the outside periphery to the drum shell.

#### § 78.111-7 Closures.

- (a) Of screw-thread type or secured by screw-thread device; openings over 2.3 inches not authorized; suitable gaskets required.
- (b) Threaded plugs, or caps, and flanges must be close fitting with gasket surfaces which bear squarely on each other when without gasket; they must have not over 12 threads per inch, with at least 3 threads engaged when gasket is in place; two %-inch drainage holes are authorized in flange.

#### § 78.111-8 Marking.

- (a) Marking on each container on top head, by stamping with pressure dies, by embossing with raised marks, or plate attached by welding, as follows:
- (1) ICC-42G. This mark shall be understood to certify that the container complies with all specification requirements.

- (2) Name or symbol (letters) of maker; this must be registered with the Bureau of Explosives and located just above, below, or following the mark specified in subparagraph (1) of this paragraph.
- (3) Gauge of metal, Brown and Sharpe, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7-30-50).

#### § 78.111-9 Size of marking.

(a) Size of marking (minimum): ¾-inch high.

#### § 78.111-10 Type tests.

- (a) Samples, taken at random and closed as for use, shall withstand prescribed tests without leakage. Tests to be made of each type and size by each company starting production and to be repeated every four months. Samples last tested to be retained until further tests are made. The type tests are as follows:
- (1) Test by dropping, filled with water to 98 percent capacity, from height of 4 feet onto solid concrete so as to strike diagonally on chime, or when without chime seam, to strike on other circumferential seam; also additional tests on any other parts which might be considered weaker than the chime.

(2) Hydrostatic pressure test of 40 pounds per square inch sustained for 5 minutes.

#### § 78.111-11 Leakage test.

(a) Each container shall be tested, unsupported, with seams under water or covered with soapsuds or heavy oil, by interior air pressure of at least 15 pounds per square inch. Leaking or damaged drums shall be rejected or repaired and retested.

#### § 78.111-12 Defective containers.

(a) Leaks and other defects shall be repaired by welding, using welding material of the same composition as originally used by the manufacturer of the drum or other approved aluminum base alloy of equal corrosion and strength qualities.

In § 78.131-7 add paragraph (c) (20 F.R. 4419, June 23, 1955) to read as follows:

§ 78.131 Specification 37A; steel drums. § 78.131-7 Closures.

(c) Closures or fittings in the removable head of any type capable of withstanding test prescribed by § 78.131-11 are authorized.

[F.R. Doc. 59-10577; Filed, Dec. 14, 1959; 8:52 a.m.]

### Proposed rule Making

### DEPARTMENT OF LABOR

Division of Public Contracts

[41 CFR Part 202 ]

INDUSTRIAL AND REFINED BASIC CHEMICALS INDUSTRY

#### Notice of Hearing to Determine Prevailing Minimum Wages

Pursuant to the provisions of section 1(b) of the Walsh-Healey Public Contracts Act (49 Stat. 2036, as amended; 41 U.S.C. 35 et seq.) and section 4(a) of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003), notice is hereby given that a public hearing to determine the prevailing minimum wages in the Industrial and Refined Basic Chemicals Industry will be held before a duly assigned Hearing Examiner on January 26, 1960, beginning at 10:00 a.m. in Conference Room A, Departmental Auditorium, Constitution Avenue between 12th and 14th Streets NW., Washington, D.C.

For the purpose of this hearing, the Industrial and Refined Basic Chemicals Industry is defined as that industry which manufactures or furnishes basic industrial inorganic and organic chemicals, including industrial gases and basic plastics materials.

The following products are specifically excluded from the definition:

Petroleum gases and petroleum crudes. Synthetic rubber. Synthetic fibers, Soap, detergents, and cleaning and polishing preparations.

Paints, varnishes, lacquers, enamels, and inorganic pigments.

Agricultural chemicals, including fertilizers. Adhesives, glues, gelatins, sizes, and cements. Fatty acids.

Cyclic (coal tar) crudes.

Prepared photographic developers, fixers, and toners.

Drugs, medicines, and medicinal chemicals. Perfumes, cosmetics, and other toilet preparations.

Gum and wood chemicals.

Explosives, ammunition, and fireworks. Bone black, carbon black, and lamp black. Fabricated plastic products.

Uranium and uranium compounds, uranium enriched in the isotope 233 or in the isotope 235.

Thorium and plutonium.

Stable isotopes including heavy water.

Florine and nitrogen gas only when produced at AEC plants.

Any interested persons may appear at the time and place specified herein and submit evidence, views, and arguments as to the following subjects and issues: (1) The appropriateness of the proposed definition of the industry; (2) what are the prevailing minimum wages in the industry; (3) whether a single determination for all the area in which the industry operates or separate determinations for smaller geographic areas (including the appropriate limits for such areas) should be determined for this industry; and (4) whether there should be included in any determination for this industry provision for the employment of probationary workers at wages lower than the prevailing minimum wages and on what terms or limitations, if any, such employment should be permitted.

Employment and wage data in this industry for the payroll period ending nearest October 15, 1958, has been gathered by the Department of Labor. Data relating to the competition in this industry for Government contracts has also been collected. This information will be submitted for consideration at the hearing and is now available to interested persons on request.

Written statements may be filed with the Chief Hearing Examiner at any time prior to the hearing by persons who cannot appear personally. An original and three copies of any such statement shall be filed and shall include the reason or reasons for non-appearance. Such statement shall be under oath or affirmation, and will be offered in evidence at the hearing. If objection is made to the admission of any such statement, the Presiding Officer shall determine whether it will be received in evidence.

To the extent possible, the evidence of each witness and the sworn or affirmed statements of persons who cannot appear personally, should permit evaluation on a plant-by-plant basis, and state: (1) (a) The number and location of establishments in the industry to which the testimony of such witness or such written statement is applicable, (b) the number of workers in each such establishment, (c) the minimum rates paid to covered workers, the number of covered

workers at each such establishment receiving such rates and the occupations in which they are employed, (d) the minimum wages paid to beginners or probationary workers in each such establishment, the scale of wages paid during probationary periods, the length of such periods, the number of workers receiving such wages, and the occupations in which they are employed; (2) The identity of any product not now included in the definition of the industry which should be included and of any product now included which should not be included; (3) The geographic area or areas of competition for Government contracts within this industry; and (4) The changes in the minimum wages paid since October 1958, for persons employed in this industry.

The hearing will be conducted pursuant to the rules of practice for minimum wage determinations under the Walsh-Healey Public Contracts Act codified in 41 CFR Part 203.

Signed at Washington, D.C., this 8th day of December 1959.

James P. Mitchell, Secretary of Labor.

[F.R. Doc. 59-10580; Filed, Dec. 14, 1959; 8:53 a.m.]

### DEPARTMENT OF HEALTH, EDU-CATION. AND WELFARE

Social Security Administration

[ 20 CFR Parts 403, 404 ]

# FEDERAL OLD-AGE AND SURVIVORS INSURANCE; REPRESENTATION OF PARTIES

#### Notice of Proposed Rule Making.

Notice of proposed rule making (amendment to Regulations No. 4; exemption of attorneys from requirement of filing written notice of representation; increase in fees attorneys may charge for representation before Social Security Administration; clarification of services of representative subject to regulation).

Notice is hereby given, pursuant to the Administrative Procedure Act approved June 11, 1946, that an amendment to the regulations set forth in tentative form below is proposed by the Commissioner of Social Security, with the approval of the Secretary of Health, Education, and Welfare, as an amendment to present Social Security Administration Regulations No. 4, as amended (20 CFR 404.1 et seq.). It is proposed to amend Regulations No. 4, repealing § 403.713 (a) through (d) of Regulations No. 3 (20 CFR 403.713 (a) to (d)), effective 60 days after the date of final publication in the FEDERAL REGISTER, to exempt an attorney-at-law from having to submit to the Social Security Administration written notice of his appointment as a representative, and to increase the amount of fees which an attornevat-law may charge and receive without prior approval of the Social Security Administration for the representation of any claimant in proceedings under title II of the Social Security Act. It is also proposed to clarify the services which a representative of a party may perform in a title II proceeding before the Social Security Administration.

Prior to the final adoption of the proposed amendment, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing in duplicate to the Commissioner of Social Security, Department of Health, Education, and Welfare, at the Health, Education, and Welfare Building, Fourth and Independence Avenue SW., Washington 25, D.C., within a period of 30 days from the date of publication of this notice in the Federal Register.

The proposed amendment is to be issued under the authority contained in sections 206 and 1102 of the Social Security Act, 53 Stat. 1372 as amended, 49 Stat. 647 as amended, and section 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18.

[SEAL] W. L. MITCHELL, Commissioner of Social Security.

NOVEMBER 24, 1959.

Approved: December 8, 1959.

ARTHUR S. FLEMMING,
Secretary of Health, Education,
and Welfare.

#### § 403.713 [Amendment]

- 1. Social Security Administration Regulations No. 3, § 403.713 (a) through (d) are repealed.
- 2. New §§ 404.971 through 404.977a are added to follow § 404.901 of Social Security Administration Regulations No. 4:

# § 404.971 Representation of parties. Appointment of representatives.

A party to an initial determination, reconsideration, hearing, or review, as provided in Part 403 of this chapter (Regulations No. 3), §§ 403.706 to 403.711, inclusive, may appoint as his representative in any such proceeding only an individual who is qualified under § 404,972 to act as a representative. Except where the representative appointed is an attorney, such party must give written notice of the appointment of a representative, signed by the party appointing the representative, and accepted by the representative appointed. The notice of appointment shall be filed at an office of the Bureau, with a hearing examiner, or with the Appeals Council. Where the representative appointed is an attorney, in the absence of information to the contrary his representation that he has such authority shall be accepted as evidence of the attorney's authority to represent a party.

#### § 404.972 Qualifications of representatives.

Any individual may be appointed to act as a representative in accordance with § 404.971, unless he is disbarred or suspended from acting as a representative in proceedings before the Social Security Administration or unless otherwise prohibited by law.

#### § 404.973 Authority of representatives.

A representative, appointed and qualified as provided in §§ 404.971 and 404.972, may make or give, on behalf of the party he represents, any request or notice relative to any proceeding before the Social Security Administration under title II of the act, including reconsideration, hearing, and review, except that such representative may not execute an application for benefits, or the establishment of a period of disability, or a lump sum unless he is a person designated in § 404.603 as authorized to execute an application for benefits, or the establishment of a period of disability, or a lump sum. A representative shall be entitled to present evidence and allegations as to facts and law in any proceeding affecting the party he represents and to obtain information with respect to the claim of such party to the same extent as such party. Notice to any party of any administrative action, determination, or decision, or request to any party for the production of evidence, may be sent to the representative of such party, and such notice or request shall have the same force and effect as if it had been sent to the party represented.

### § 404.974 Proceedings before a State or Federal court.

Any service rendered by any representative in connection with any proceeding before any State or Federal court shall not be considered services in any proceeding before the Social Security Administration for purposes of §§ 404.973, 404.976, and 404.977.

#### § 404.975 Fees for services.

Fees for the services of a representative, appointed and qualified in accordance with §§ 404.971 and 404.972 may be charged to, and received from, the party represented only as provided in §§ 404.976 and 404.977. No fees for services in any proceeding under title II of the act shall be charged by or paid to any person except a representative duly appointed and qualified in accordance with §§ 404.971 and 404.972.

#### § 404.976 Attorneys.

An attorney who is admitted to practice before a court of a State, Territory, District, or insular possession, or before the Supreme Court of the United States or an inferior Federal court, and who is not otherwise prohibited by law from charging or receiving such a fee, may upon petition therefor and good cause shown charge and receive such fee for services rendered in any proceeding under title II of the act before the Bureau of Old-Age and Survivors Insurance, or a hearing examiner, or the Appeals Council (see § 404.977a), as may be approved by such Bureau, hearing examiner, or Appeals Council, respectively: Provided, That no such approval shall be required for charging or receiving a fee for such services in a total amount not greater than the following: Representation before the Bureau only, \$20; representation before a hearing examiner and/or the Appeals Council only, \$30; representation before the Bureau and a hearing examiner and/or the Appeals Council, \$50. This limitation shall be applicable whether the fee is paid by a party to the proceeding or by someone

§ 404.977 Individuals other than attorneys.

No individual other than an attorney, as provided in § 404.976, may charge or receive a fee for services rendered in any proceeding under title II of the act before the Bureau, or a hearing examiner, or the Appeals Council (see § 404.977a), unless he is authorized to do so by the Bureau, a hearing examiner, or the Appeals Council, as stated in this section. An individual other than an attorney who desires authorization to charge or receive a fee for such services shall file a written petition therefor and make a showing that he is not otherwise prohibited from charging or receiving a fee, that he has special qualifications which enabled him to render valuable services to a party in a proceeding before the Social Security Administration, and that he has actually rendered such services to the party he represents. Upon the filing of such petition and a showing that he has rendered such services, the amount of the fee he may charge or receive, if any, shall be determined by the Bureau, a hearing examiner, or the Appeals Council, and no fees shall be charged or received which is in excess thereof.

#### § 404.977a Services rendered in a title II proceeding.

Services rendered in a proceeding under title II of the act consist of services rendered in connection with any claim before the Secretary of Health, Education, and Welfare under such title, including any services in connection with any asserted right calling for an initial or reconsidered determination by the Bureau, a decision by a hearing examiner or a decision or order by the Appeals Council. This includes, but is not limited to, services in connection with an application for benefits or a lump sum, the establishment or continuance of a period of disability: a request for a modification of the amount of benefits or lump sum, or the reinstatement of benefits; proof of support from an insured individual by a husband, widower, parent, or former wife divorced; and a request for the revision of an earnings record.

[F.R. Dcc. 59-10592; Filed, Dec. 14, 1959; 8:56 a.m.]

### FEDERAL AVIATION AGENCY

[ 14 CFR Pari 507 ]

[Reg. Docket 209]

### AIRWORTHINESS DIRECTIVES

#### Sikorsky

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive

establishing service lives of various components of Sikorsky S-52-3 helicopters.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, of the Federal Aviation Agency, Room E-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before January 15, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired.

This amendment is proposed under the authority of sections 313(a), 601 and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a), (14 CFR Part 507), by adding the following airworthiness directive:

SIKORSKY. Applies to all Sikorsky S-52-3 helicopters.

Compliance required as indicated.

Investigation of the service history of the H05S-1 (S-52-3) helicopters, shows that the following components must be retired after 100 hours time in service as a safety measure, pending further investigation to establish final service lives.

(a) Main rotor assembly including rotating and stationary azimuth stars.

(b) Main rotor blades.

- Tail rotor assembly.
- (d) Tail rotor blades.
- Main gear box. (e) Main rotor shaft.
- (g) Intermediate gear box.
- (h) Clutch. Tail gear box.
- (j) Fan assembly.
- (k) Tail rotor drive shaft.

Issued in Washington, D.C., on December 9, 1959.

WILLIAM B. DAVIS, Director, Bureau of Flight Standards.

[F.R. Doc. 59-10556; Filed, Dec. 14, 1959; 8:46 a.m.]

#### I 14 CFR Part 507 1

[Reg. Docket 207]

### AIRWORTHINESS DIRECTIVES

#### Bendix -

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring removal of carbon resistors in certain Bendix MI-51B Amspeakers due to fire hazard associated with failures.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section, of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before January 15, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a), (14 CFR Part 507), by adding the following airworthiness directive:

BENDIX. Applies to all aircraft public address speaker systems using the Bendix MI-51B Amspeaker, Serial Numbers 1001 to 1201, which have carbon resistors in parallel with or in lieu of wire wound resistors R-103 and R-106.

Compliance required within 90 days after publication of this airworthiness directive in the FEDERAL REGISTER as an adopted rule.

Failures have occurred where the speaker cone of the MI-51B was destroyed by fire as a result of overheating of these carbon resistors, thus creating a possible hazardous condition. Due to the seriousness of the fire hazard associated with these failures, any carbon resistors paralleled with or substituted for resistors R-103 and R-106 shall be removed in accordance with either of the following methods:

(a) Method No. 1. Clip out 3.9 ohm carbon resistors connected across wire wound resistors R-103 and R-106. (Removal of these resistors will reduce the audio output

by approximately 10 percent).

(b) Method No. 2. Replace each of the parallel networks composed of 3.9 ohm carbon-resistors in parallel with wire wound resistor R-103 and R-106, with a 0.75 ohm wire wound resistor (±5 percent, ½ W).
(Bendix Service Bulletin No. M-273 dated

July 8, 1959 covers the same subject.)

Issued in Washington, D.C., on December 8, 1959.

> WILLIAM B. DAVIS, Director, Bureau of Flight Standards.

[F.R. Doc. 59-10554; Filed, Dec. 14, 1959; 8:45 a.m.]

#### [ 14 CFR Part 514 ]

[Reg. Docket 205]

TECHNICAL STANDARD ORDERS FOR AIRCRAFT MATERIALS PARTS, PROCESSES, AND APPLIANCES

Airborne Doppler Radar Ground Speed and/or Drift Angle Measuring Equipment

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196) notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 514 of the regulations of the Adminis-

trator by adopting a new Technical Standard Order. This Technical Standard Order will establish minimum performance standards for airborne doppler radar ground speed and/or drift angle measuring equipment which is to be used on civil aircraft of the United States engaged in air carrier operations.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before January 29, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further publication as a draft release.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (72 Stat. 752, 775; 49 U.S.C. 1354(a), 1421).

In consideration of the foregoing it is proposed to amend Part 514 as follows: By adding the following § 514.70:

#### § 514.70 Airborne doppler radar ground speed and/or drift angle measuring equipment (for air carrier air-craft)—TSO-C65

(a) Applicability—(1) Minimum performance standards. Minimum performance standards are hereby established for airborne doppler radar ground speed and/or drift angle measuring equipment which is to be used on civil aircraft of the United States engaged in air carrier operations. New models of airborne doppler radar ground speed and/or drift angle measuring equipment manufactured for use on civil air carrier aircraft on or after the effective date this section shall meet the minimum performance standards as set forth in Radio Technical Commission for Aeronautics' Paper entitled "Minimum Performance Standards-Airborne Doppler Radar Ground Speed and/or Drift Angle Measuring Equipment" (Paper 166-59/DO-981 dated September 8, 1959). Radio Technical Commission for Aeronautics' Paper 100-54/DO-601 which is incorporated by reference in and thus is a part of Paper 166-59/DO-98 has been amended by Paper 256-58/EC-366 dated November 13, 1958. This amendment is also a part of the minimum performance standards. An exception to these standthis paragraph.2

(2) Exceptions. (i) Radio Technical Commission for Aeronautics' Paper 100-54/DO-60, and amendment Paper 256-58/EC-366 dated November 13, 1958, outline environmental test procedures for equipment designed to operate under three environmental test conditions as specified therein under Procedures A, B, and C. Only airborne doppler radar ground speed and/or drift angle measuring equipment which meets the operating requirements as outlined under Procedure A or Procedure B of Paper 100-54/DO-60, as amended, is eligible under this section.

(ii) The vibration values specified below may be used for equipment designed exclusively for installation on the instrument panel of aircraft in lieu of those specified in Paper 100-54/DO-60 as amended. No shock mounting shall be used during the conduct of this test if the vibration values specified below are used.

Amplitude: 0.01" (0.02" total excursion). Frequency: Variable 10-55 cps. Maximum Acceleration: 1.5 g.

(iii) Equipment which is designed exclusively for installation on the instrument panel of aircraft need not be subjected to the shock requirements outlined in Paper 100-54/DO-60 amended.

(iv) Indicating instruments which are a part of the system, but which are not designed exclusively for installation on the instrument panel of aircraft, may also be tested to the vibration requirements specified in subdivision (ii) of this subparagraph, and need not be subjected to the shock requirements outlined in Paper 100-54/DO-60 as amended.

(b) Marking. In addition to the information required in § 514.3, equipment which has been designed to operate over the environmental conditions as outlined in Procedure A of RTCA Paper 100-54/DO-60, as amended, shall be marked as Category A equipment. Equipment which has been designed to operate over the environmental conditions outlined in Procedure B of this same paper shall be marked as Category B equipment. Equipment which has been designed exclusively for installation on the instrument panel of aircraft and which meets only the amended vibration requirements outlined above shall be identified with the letters I.P. following the category of equipment, such as CAT. A-I.P.

(c) Data requirements. One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Engineering and Manufactur-

ards is covered in subparagraph (2) of ing Division, Federal Aviation Agency, Washington 25, D.C., with the statement of conformance.

> (d) Previously approved equipment. Airborne doppler radar ground speed and/or drift angle measuring equipment approved prior to the effective date of this section may continue to be manufactured under the provisions of its original approval.

> Issued in Washington, D.C., on December 8, 1959.

WILLIAM B. DAVIS, Director. Bureau of Flight Standards.

[F.R. Doc. 59-10557; Filed, Dec. 14, 1959; 8:46 a.m.]

#### I 14 CFR Part 514 I

[Reg. Docket 2061

#### TECHNICAL STANDARD ORDERS FOR AIRCRAFT MATERIALS PARTS. PROCESSES, AND APPLIANCES

#### Airborne Distance Measuring Equipment (DMET)

Pursuant to the authority delegated to me by the Administrator (§ 405.27, 24 F.R. 2196) notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 514 of the regulations of the Administrator by adopting a new Technical Standard Order. This Technical Standard Order will establish minimum performance standards for airborne distance measuring equipment for use on civil aircraft of the United States engaged in air carrier operations.

Interested persons may participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room B-316, 1711 New York Avenue NW., Washington 25, DC. All communications received on or before January 29, 1960, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, in the Docket Section, for examination by interested persons when the prescribed date for return of comments has expired. This proposal will not be given further publication as a draft release.

This amendment is proposed under the authority of sections 313(a) and 601 of the Federal Aviation Act of 1958 (72 Stat.

752, 775; 49 U.S.C. 1354(a), 1421). In consideration of the foregoing it is proposed to amend Part 514 as fol-

By adding the following § 514.71:

# § 514.71 Airborne distance measuring equipment (DMET) (for air carrier aircraft)—TSO-C66.

(a) Applicability-(1) Minimum performance standards. Minimum per-

¹ Copies of these papers may be obtained from the RTCA Secretariat, Room 1072, T-5 Building, 16th and Constitution Avenue NW., Washington 25, D.C. Paper 166-59/DO-98, 40 cents per copy; Paper 100-54/DO-60, 20 cents per copy.

² In addition to the performance standards herein, airborne doppler radar ground speed and/or drift angle measuring equipment when installed in aircraft must meet installation requirements as well as functional and reliability flight tests of the pertinent airworthiness sections of the Civil Air Regulations.

formance standards are hereby established for airborne distance measuring equipment (DMET) which is to be used on civil aircraft of the United States engaged in air carrier operations. New models of airborne distance measuring equipment (DMET) manufactured for use on civil air carrier aircraft on or after the effective date of this section shall meet the minimum performance standards as set forth in Radio Technical Commission for Aeronautics' Paper entitled "Minimum Performance Standards-Airborne Distance Measuring Equipment (DMET) Operating Within the Radio Frequency Range of 960-1215 Megacycles," (Paper 167-59/DO-99) 1 dated September 8, 1959. Radio Technical Commission for Aeronautics' Paper 100-54/DO-60 which is incorporated by reference in and thus is a part of Paper 167-59/DO-99 has been amended by Paper 256-58/EC-366 dated November 13, 1958. This amendment is also a part of the minimum performance standards. An exception to these standards is covererd in subparagraph (2) of this paragraph.3

(2) Exceptions. (i) Radio Technical Commission for Aeronautics' Paper 100-54/DO-60 and amendment Paper 256-58/EC-366 dated November 13, 1958, outline environmental test procedures for equipment designed to operate under three environmental test conditions as specified therein under Procedures A, B, and C. Only airborne distance measuring equipment (DMET) which meets the operating requirements as outlined under Procedure A or Procedure B of Paper 100-54/DO-60, as amended, is eligible

under this section.

(ii) The vibration values specified below may be used for equipment designed exclusively for installation on the instrument panel of aircraft in lieu of those specified in Paper 100-54/DO-60 as amended. No shock mounting shall be used during the conduct of this test

if the vibration values specified below are used.

Amplitude: 0.01" (0.02" total excursion). Frequency: Variable 10-55 cps. Maximum Acceleration: 1.5 g.

(iii) Equipment which is designed exclusively for installation on the instrument panel of aircraft need not be subjected to the shock requirements outlined in Paper 100-54/DO-60 as amended.

(iv) Indicating instruments which are a part of the system, but which are not designed exclusively for installation on the instrument panel of aircraft, may also be tested to the vibration requirements specified in subdivision (ii) of this subparagraph, and need not be subjected to the shock requirements outlined in Paper 100-54/DO-60 as amended.

(b) Marking. In addition to the information required in § 514.3, equipment which has been designed to operate over the environmental conditions as outlined in Procedure A of RTCA Paper 100-54/DO-60, as amended, shall be marked as Category A equipment. Equipment which has been designed to operate over the environmental conditions outlined in Procedure B of this same paper shall be marked as Category B equipment. Equipment which has been designed exclusively for installation on the instrument panel of aircraft and which meets only the amended vibration requirements outlined above shall be identified with the letters I. P. following the category of equipment, such as CAT. A—I. P.

(c) Data requirements. One copy each of the manufacturer's operating instructions, schematic diagrams, and installation procedures shall be furnished the Chief, Engineering and Manufacturing Division, Federal Aviation Agency, Washington 25, D.C., with the statement of conformance.

(d) Previously approved equipment. Airborne distance measuring equipment (DMET) approved prior to the effective date of this section may continue to be

manufactured under the provisions of its original approval.

Issued in Washington, D.C., on December 8, 1959.

William B. Davis, Director, Bureau of Flight Standards.

[F.R. Doc. 59-10558; Filed, Dec. 14, 1959; 8:47 a.m.]

### SECURITIES AND EXCHANGE -COMMISSION

I 17 CFR Part 240 ]

EXEMPTION OF CERTAIN ACQUISITIONS OF SECURITIES UNDER CERTAIN PLANS; EXTENSION OF TIME FOR SUBMITTING COMMENTS

Notice of Proposed Rule Making

The Securities and Exchange Commission today announced an extension of time from December. 15, 1959 to January 15, 1960 within which comments on its proposed amendments to § 240.16b-3 under the Securities Exchange Act of 1934 may be submitted. This rule exempts from section 16(b) of the Act certain acquisitions of securities under certain bonus, profit sharing, retirement, stock option, thrift, savings or similar plans.

The extension was granted at the request of persons who stated that the additional time was needed to study the proposed amendments and submit their comments thereon.

By the Commission.

[SEAL] ORVAL L. DUBOIS, Secretary.

DECEMBER 4, 1959.

[F.R. Doc. 59-10569; Filed, Dec. 14, 1959; 8:50 a.m.]

### NOTICES

### FEDERAL POWER COMMISSION

[Docket No. G-19690]

# ARKANSAS LOUISIANA GAS CO. Notice of Application and Date of Hearing

**DECEMBER 9, 1959.** 

Take notice that on October 8, 1959, as supplemented on November 2, 1959,

¹Copies of these papers may be obtained from the RTCA Secretariat, Room 1072, T-5 Building, 16th and Constitution Avenue NW., Washington 25, D.C. Paper 167-59/DO-99, 50 cents per copy; Paper 100-54/DO-60, 20 cents per copy.

20 cents per copy, Paper 100-32/100-00, 20 cents per copy.

"In addition to the performance standards herein, airborne distance measuring equipment (DMET) when installed in aircraft must meet installation requirements as well as functional and reliability flight tests of the pertinent airworthiness sections of the Civil Air Regulations.

Arkansas Louisiana Gas Company (Applicant) filed in Docket No. G-19620 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of field facilities from time to time during the calendar year 1960 to enable Applicant to take into its certificated main transmission pipeline system natural gas which will be purchased from producers in the general area of its existing transmission system at a total cost not in excess of \$2,745,000 with no single project to exceed a cost of \$500,000 all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its pipeline system new supplies of gas in

various producing areas generally coextensive with its system.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 7, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: Provided, however, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and proprovided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 4, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

> JOSEPH H. GUTRIDE. Secretary.

[F.R. Doc. 59-10589; Filed, Dec. 14, 1959; 8:55 a.m.1

[Docket No. G-20038]

#### ARKANSAS LOUISIANA GAS CO. Notice of Application and Date of Hearing

DECEMBER 9, 1959.

Take notice that on November 2, 1959, as amended on November 13, 1959, Arkansas Louisiana Gas Company (Applicant) filed in Docket No. G-20038 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of routine budgeted facilities from time to time during the calendar year 1960 to enable Applicant to connect new industrial customers purchasing natural gas directly from its interstate transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The facilities proposed to be built to render such service include transmission mains, compressor station equipment and main line measuring and regulating equipment at a total cost during the year 1960 of not to exceed \$615,000, with no single project to exceed a cost of \$200,000.

The estimated total annual volume of natural gas involved under this application is 7,000,000 Mcf, which will be delivered to not more than 165 direct industrial customers for use in ovens, kilns, internal combustion engines, boilers, vats, dryers and other equipment for agricultural, oil and gas processing, manufacturing and mining purposes.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on January 7, 1960, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: Provided, however, That the Commission may, after a non-

cedure. Under the procedure herein contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, un-less otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

> Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before January 4, 1960. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

> > JOSEPH H. GUTRIDE. Secretary.

[F.R. Doc. 59-10590; Filed, Dec. 14, 1959; 8:55 a.m.]

### DEPARTMENT OF THE TREASURY

**Bureau of Customs** 

[643.3]

#### ALUMINUM FLORIST FOIL FROM **AUSTRIA**

#### Purchase Price; Foreign Market Value

DECEMBER 9, 1959.

Pursuant to section 201(b) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(b)), notice is hereby given that there is reason to believe or suspect, from the information presented to me, that the purchase price of aluminum florist foil from Austria is less, or likely to be less, than the foreign market value, as defined by sections 203 and 205, respectively, of the Antidumping Act, 1921, as amended (19 U.S.C. 162 and 164).

Customs officers are being authorized to withhold appraisement of entries of aluminum florist foil from Austria pursuant to § 14.9 of the Customs Regulations (19 CFR 14.9).

[SEAL] RALPH KELLY, Commissioner of Customs.

[F.R. Doc. 59-10585; Filed, Dec. 14, 1959; 8:54 a.m.]

#### Office of the Secretary [AA 643.31

#### PORTLAND CEMENT FROM CANADA Determination of Sales at Less Than Fair Value

**DECEMBER 8, 1959.** 

A complaint was received that Portland cement manufactured by the St. Lawrence Cement Company, Ontario, Canada, was being sold to the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that Portland cement manufactured by the St. Lawrence Cement Company, Ontario, Canada, is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

The United States Tariff Commission is being advised of this determination.

Statement of reasons. Imports of Portland cement from the St. Lawrence Cement Company of Canada have been shipped to various destinations in the United States. The great preponderance of the importations were made by a firm which is an "exporter" within the meaning of section 207 of the Antidumping Act, as amended. As to such importations, exporter's sales price furnished the basis for the fair value comparison. As to all other importations, purchase price was determined to be appropriate for the fair value comparison. As the quantities sold in the home market were adequate, purchase price and exporter's sales price, as the circumstances warranted, were compared with home market price. The home market price used for the fair value comparison was a calculated weighted average of the home market prices in the two principal markets of Toronto and Montreal, Can-

It was determined that the price to the United States of a large proportion of the imported cement was lower than the home market price. The evidence available indicates that shipments at less than home market price are continuing and are likely to continue in the future.

This determination and the statement of reasons therefor and published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

**ISEAL** A. GILMORE FLUES. Acting Secretary of the Treasury.

[F.R. Doc. 59-10536; Filed, Dec. 14, 1959; 8:54 a.m.1

#### Office of the Secretary [AA 643.3]

#### TITANIUM DIOXIDE FROM JAPAN Determination of No Sales at Less Than Fair Value

DECEMBER 8, 1959.

A complaint was received that titanium dioxide from Japan was being sold to the United States at less than fair value within the meaning of the Antidumping Act of 1921.

I hereby determine that titanium dioxide from Japan is not being, nor is likely to be, sold in the United States at less than fair value within the meaning of section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)).

Statement of reasons. There were

two principal manufacturers of titanium dioxide in Japan shipping to the United States during the period under review. It was established that the two manufacturers sell titanium dioxide in substantial quantities for home consumption in Japan. Home market price, therefore, after adjustment for such items as commissions, packing, inland freight, and selling and other administrative expenses, was compared with purchase price. In no instance was home market

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price found to be higher than purchase price.

This determination and the statement of reasons therefor are published pursuant to section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)).

A. GILMORE FLUES, Acting Secretary of the Treasury.

[F.R. Doc. 59-10587; Filed, Dec. 14, 1959; 8:54 a.m.]

### DEPARTMENT OF THE INTERIOR

Bureau of Land Management [1-27]

#### **UTAH**

#### Notice of Proposed Withdrawal and Reservation of Lands

**DECEMBER 4, 1959.** 

The United States Department of Agriculture has filed an application, Serial No. U-036838, for the withdrawal of land described below from location and entry under the public land laws, including the general mining laws but not the mineral leasing laws. The applicant desires the withdrawal of these lands that the Forest Service may exercise such controls as are necessary to establish camp grounds and recreation areas and to prevent uses of those areas which are not compatible with the objectives of that agency.

For a period of 30 days from the date of publication of this notice, persons having cause may present their objections in writing to the undersigned official of the Bureau of Land Management, P.O. Box No. 777, Salt Lake City 10, Utah. If circumstances warrant, a public hearing will be held at a convenient time and place which will be announced.

The determination of the Secretary of the Interior on the application will be published in the FEDERAL REGISTER. separate notice will be sent to each interested party of record.

The lands requested for withdrawal are as follows:

> Uintam Special Meridian, Utam ASHLEY NATIONAL FOREST

Upper Stillwater Campground

T. 2 N., R. 7 W., Sec. 20: SW¼NE¼, SE¼NW¼.

Yellowpine Flat Campground

T. 2 N., R. 7 W., Sec. 23: 5½SW½SW¼; Sec. 26: N½NW¼NW¼.

Miners Gulch Campground

T. 2 N., R. 7 W., Sec. 25: SW4SE4.

Moon Lake Recreation Area

T. 2 N., R. 6 W., Sec. 13: N½SW¼NE¼ (above high water line), SE¼NE¼ (above high water line), SE½SW¼NE¼, NE¼SE,¼, E½NW½

SE14. T. 2 N., R. 5 W.,

Sec. 18: Lot 6, that portion of W1/2SE1/4" (above high water line), and SE1/4SW1/4.

Lake Fork Canal Campground

T. 2 N., R. 5 W., Sec. 33: NE1/4NW1/4.

#### **NOTICES**

Beaver Pond Campground

T. 2 N., R. 5 W.,

Sec. 34: E%NE%SW%, N% Lot 3. Yellowstone Campground

T. 2 N., R. 4 W., Sec. 27: NW1/4NW1/4.

Reservoir Campground

T. 2 N., R. 4 W., Sec. 15: W½NW¼NE¼, E½NE¼NW¼. Swift Creek Campground

T. 2 N., R. 4 W., Sec. 4: W1/2 SE1/4 NW1/4, E1/2 SW1/4 NW1/4. Hell Canyon Campground

T. 2 N., R. 5 W., Sec. 2: NW1/4SW1/4.

Jackson Park Campground

T. 3 N., R. 4 W., Sec. 26: S1/2 NW1/4.

The above area aggregates 819.55 acres.

VAL B. RICHMAN. State Supervisor.

[F.R. Doc. 59-10565; Filed, Dec. 14, 1959; 8:49 a.m.]

#### IDAHO

#### Notice of Proposed Withdrawal and Reservation of Lands

DECEMBER 7, 1959.

The Department of the Army has filed an application, Serial Number I-010873, for the withdrawal of the lands described below, from all forms of appropriation under the Public Land Laws. The applicant desires the land for a Strategic Air Command Missile Project.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, P.O. Box 2237, Boise, Idaho.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

Boise Meridian, Idaho

T. 4 S., R. 2 E.,

Sec. 18; SE¼SE¼ of Lot 4, SE¼NE¼SE¼ 

SE¼;
Sec. 19; NE¼NE¼ of Lot 1, S½NE¼ of Lot 1, SE½ of Lot 1, NE½ of Lot 2, E½SE¼ of Lot 2, W½E½NE¼NE¼, W½NE¼ NE¼, NW¼NE¼SE¼NE¼, NW¼SE¼ NE¼, N½SW¼SE¼NE¼, SE¼NE¼, N½NE½ NE½SE¼NE¼, N½NE½ NE½SW¼, NE½NW¼, NE½NW¼, NE¾NW¼ NE½SW¼, NW¼ NE½NW¼NE½SW¼, NW¼ NE½NW¼SE¼, N½NW¼NW¼SE½.

This area includes a total of 315.00 acres located in Owyhee County, Idaho.

Within the above area the following described lands, designated as Parcel B, are to be withdrawn for exclusive use of the applicant only:

Sec. 19; Beginning at a point 279.46 ft. south 0°25'37" west from the north-quarter corner, thence by the following bearings and distances: East, 1,079.80 ft; south, 850.0 ft; west, 313.48 ft; south 11°39'22" east, 894.52 ft.; west 1,007.27 ft; north 20°59'55" west, 1,060.43 ft.; north, 910.0 ft.; and east, 440.20 ft. to the point of beginning, comprising a total of 57.00 acres.

The remaining area, designated as Parcel A, may be used for grazing purposes under the provisions of the Act of June 28, 1934 (48 Stat. 1269) as amended.

> DONALD I. BAILEY, Acting State Supervisor.

[F.R. Doc. 59-10564; Filed, Dec. 14, 1959; 8:48 a.m.]

#### Bureau of Reclamation INO. 391

#### RIVERTON PROJECT, WYOMING **Public Notice of Annual Water Rental** Charges

DECEMBER 4, 1959.

1. Water rental. Irrigation water will be furnished upon a rental basis during the irrigation season of 1960 to the irrigable lands described in Public Notice No. 30 for the North Portal area, Riverton Project, Wyoming, excepting there-from those lands which have been reclassified as nonirrigable under provisions of the Act of August 13, 1953 (67 Stat. 566), or other statutory authority.

2. Charges and terms of payment. A minimum water rental charge shall be payable for irrigable lands described in Public Notice No. 30, whether water is used or not. Such minimum charge need not be paid in any year for any acreage which the Riverton Project Manager certifies to be temporarily nonirrigable during such year due to seepage, land subsidence, shallow or impermeable soils, or excessive amounts of salts. Payment of the minimum water rental charge will entitle the water user to two acre-feet of water per irrigable acre. The minimum charge shall be payable in advance on January 1 of each year, and no water will be furnished until such charge is paid in full. Charges for water furnished in excess of two acre-feet per irrigable acre shall be payable on January 1 for water furnished during the preceding year.

The minimum water rental charge for lands in the North Portal area described in Public Notice No. 30 shall be \$2 per irrigable acre. Water in addition to two acre-feet per irrigable acre, if available, shall be furnished at the rate of \$2 per acre-foot, or such lower rate as may be determined by the Secretary on or about November 15 of the year in which the water is used, which rate, so far as practicable, shall be adequate to provide sufficient income to assure liquidation of operation and maintenance costs incurred during the development period.

3. Water for other lands. Irrigation water, when available, will also be furnished at the rates described in Paragraph 2, to other lands in the North Portal areas upon the filing each year of a temporary water rental application covering such other lands. The approval of a water rental application for these lands shall not be deemed to constitute an action leading to a continuing right to receive water in subsequent The application for water on vears. other lands can be made at any time during the irrigation year. At the time of application, the water rental charge is due without application of the discounts or penalties prescribed in Paragraph 4, and no water will be delivered until all charges have been paid in full.

4. Discounts and penalties. If payment of the minimum charge is made on or before January 31, 1960, a discount of 5 percent of such charge will be allowed. If payment of the charge for additional water is made on or before December 31, 1960, a discount of 5 percent of such charge will be allowed. If payment of the minimum charge is not made by April 1 of 1960, and if payment for additional water furnished to any lands is not made by April 1, 1961, there shall be added on the following day a penalty of one-half of one percent of the amount unpaid, and the same penalty shall be added on the first day of each calendar month thereafter so long as such default shall continue, and no water will be delivered until all charges and penalties have been paid in full.

5. Place of payment. Payment of water rental charges shall be made at the Bureau of Reclamation Office in Riverton, Wyoming, or mailed to the Bureau of Reclamation, Riverton, Wyoming.

6. Public Notice. This notice supersedes Public Notice No. 38 with respect to water furnished in 1960, and supplements Subparagraphs 25(b) and 25(c) of Public Notice No. 30, Riverton Project. This notice is not applicable to land opened to entry under Public Notice No. 28 due to the expiration of the tenyear development period authorized by section 7(b) of the Reclamation Project Act of 1939 (53 Stat. 1187, 43 USC 485).

C. T. JUDAH, Acting Regional Director.

[F.R. Doc. 59-10566; Filed, Dec. 14, 1959; 8:49 a.m.]

### DEPARTMENT OF COMMERCE

Office of the Secretary
[Dept. Order 153 (Revised), Amdt. 2]

BUREAU OF FOREIGN COMMERCE

# BUREAU OF FOREIGN COMMERCE Organization and Functions

DECEMBER 1, 1959.

The material appearing in 23 F.R. 7953-7955 of October 15, 1958, and 24 F.R. 4890 of June 16, 1959, is further amended as follows:

The Foreign Trade Zones Staff, together with its functions, responsibilities, records, personnel, equipment and

funds are hereby transferred from the Bureau of Foreign Commerce to the Office of the Assistant Secretary of Commerce for International Affairs.

Department Order No. 153 (Revised) dated September 24, 1958, as amended, is further amended as follows to reflect this action:

- 1. Item (8) of section 2.02 1 is eliminated.
- 2. In section 3.01, "the Foreign Trade Zones Act as amended, as provided herein (48 Stat. 998; 19 U.S.C. 81a-81u)." is eliminated.
- 3. In section 4.01 6, "the Foreign Trade Zones Act," is eliminated.

4. Section 5.08 is eliminated.

The Assistant Secretary of Commerce for Administration, acting through appropriate offices of the Department, shall determine and arrange for the transfer of the functions, responsibilities, records, personnel, equipment and funds of the Foreign Trade Zones Staff as provided herein.

Frederick H. Mueller, Secretary of Commerce.

[F.R. Doc. 59-10574; Filed, Dec. 14, 1959; 8:51 a.m.]

### **CIVIL AERONAUTICS BOARD**

[Docket 10571]

# NORTHERN CONSOLIDATED AIRLINES, INC.

#### Notice of Prehearing Conference

In the matter of proposed fares of Northern-Consolidated Airlines, Inc. Order of Investigation, E-13974.

Notice is hereby given that a prehearing conference in the above-entitled investigation is assigned to be held on December 21, 1959, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before Examiner Paul N. Pfeiffer.

Dated at Washington, D.C., December 10, 1959.

[SEAL]

Francis W. Brown, Chief Examiner.

[F.R. Doc. 59-10593; Filed, Dec. 14, 1959; 8:57 a.m.]

[Docket 7393 etc.]

# SPOKANE, WASHINGTON-CALGARY, CANADA ROUTE CASE

#### Notice of Oral Argument

In the matter of the applications of Northwest Airlines, Inc., and West Coast Airlines, Inc., for authority to conduct air transportation between Spokane, Washington, and Calgary, Canada.

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, that oral argument in the above-entitled proceeding is assigned to be held on January 12, 1960, at 10:00 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Av-

enues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., December 9, 1959.

[SEAL]

Francis W. Brown, Chief Examiner.

[F.R. Doc. 59-10594; Filed, Dec. 14, 1959; 8:57 a.m.]

# FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 12604, etc.; FCC 59M-1681]

#### BLUE ISLAND COMMUNITY BROAD-CASTING CO., INC., ET AL.

#### Order Scheduling Hearing

In re applications of Blue Island Community Broadcasting Co., Inc., Blue Island, Illinois, Docket No. 12604, File No. BPH-2458; The News-Sun Broadcasting Co., Waukegan, Illinois, Docket No. 13292, File No. BPH-2543; William O. Barry and H. C. Houng, Jr. d/b as Hi-Fi Broadcasting Company, Chicago, Illinois, Docket No. 13293, File No. BPH-2589; Elmwood Park Broadcasting Corporation, Elmwood Park, Illinois, Docket No. 13294, File No. BPH-2636; Patrick Henry, David D. Larsen, Stewart B. Kett and James D. Glenn, Jr. d/b as Suburban Broadcasters, Berwyn, Illinois, Docket No. 13295, File No. BPH-2748; Evelyn R. Chauvin Schoonfield, Elmwood Park, Illinois, Docket No. 13296, File No. BRH-179; for construction permits (FM).

It is ordered, This 9th day of December 1959, that Isadore A. Honig will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on February 23, 1960, in

Washington, D.C.

Released: December 10, 1959.

FEDERAL COMMUNICATIONS COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

[F.R. Doc. 59-10595; Filed, Dec. 14, 1959; 8:57 a.m.]

[Docket Nos. 13257, 13258]

# CATSKILLS BROADCASTING CO. AND ELLENVILLE BROADCASTING CO.

#### Correction

In re applications of Harry G. Borwick, David Levinson, Seymour D. Lubin, Henry L. Shipp, Joseph K. Schwartz, and Philip Slutsky, d/b as Catskills Broadcasting Company, Ellenville, New York, Requests: 1370 kc, 500 w, Day, Docket No. 13257, File No. BP-12266; Jerome Z. Elkin, Charles W. Letter, Samuel Elkin, and Henry W. Weiss, d/b as Ellenville Broadcasting Company, Ellenville, New York, Requests: 1370 kc, 500 w. Day, Docket No. 13258, File No. BP-12742; for construction permits.

The Order (FCC 59-1103) adopted by the Commission on October 23, 1959 and released November 5, 1959 is herein corrected with respect to the caption of Ellenville Broadcasting Company to read as follows: "Jerome Z. Elkin, Charles W. Letter, Samuel Elkin, and Henry W. Weiss, d/b as Ellenville Broadcasting Company, Ellenville, New York".

Released: December 10, 1959.

FEDERAL COMMUNICATIONS CONTRISSION, MARY JANE MORRIS,

[SEAL]

Morris, Secretary.

[F.R. Doc. 59-10596; Filed, Dec. 14, 1959; 8:57 a.m.]

[Docket No. 13288; FCC 59M-1678]

#### EVANSTON CAB CO.

# Order Scheduling Prehearing Conference

In re application of Evanston Cab Company, Docket No. 13288, File No. 34460-LX-59; for authorization to operate a base station in the taxicab radio service in Chicago, Ill.

On the Hearing Examiner's own motion: It is ordered, This 9th day of December 1959, that all parties, or their counsel, in the above-entitled proceeding are directed to appear for a prehearing conference pursuant to the provisions of §1.111 of the Commission's rules, on Wednesday, December 30, 1959, at 10:00 a.m., in the offices of the Commission at Washington, D.C.

Released: December 9, 1959.

[SEAL]

Federal Communications Commission, . Mary Jane Morris, Secretary.

[F.R. Doc. 59-10597; Filed, Dec. 14, 1959; 8:57 a.m.]

[Docket No. 13090, etc.; FCC 59M-1679]

# FREDERICKSBURG BROADCASTING CORP. (WFVA)

# Order Following Prehearing Conference

In re applications of Fredericksburg Broadcasting Corporation (WFVA), Fredericksburg, Virginia, et al., Docket Nos. 13090, 13091, 13092, 13093, 13094, 13095, 13096, 13097, 13098, 13099, 13100, 13101, 13102, 13103, 13104, 13105, 13106, 13107, 13108, 13109, 13110, 13111, 13112, 13113, 13114, 13115, 13116, 13117, 13118, 13119, 13120, 13121, 13122, 13123, 13124, 13125, 13126, 13127, 13129, 13130, 13131, 13132, 13133, 13134, 13135, 13136, 13137, 13138, 13139, 13140, 13141, 13142, 13143, 13144, 13145, 13146, 13147; File No. BP-11550; for construction permits.

Pursuant to agreements reached on the record of a prehearing conference of Group I held this day in the aboveentitled matter: *It is ordered*, This 9th day of December 1959.

1. The hearing in this proceeding, insofar as it pertains to Group I, is hereby scheduled for 10:00 a.m., January 19.

1960, in the Commission's offices in Washington, D.C.

2. Corrected engineering exhibits shall be exchanged among the applicants of Group I and distributed to those interested in Group I on or before January 4, 1960.

3. Written financial testimony respecting KODY shall be distributed to the other applicants in Group I and to the interested parties in Group I on or before January 12, 1960.

4. Those parties desiring to have other parties' engineering counsel available for cross-examination shall notify such other parties' legal counsel on or before January 12, 1960.

Released: December 9, 1959.

FEDERAL COMMUNICATIONS

COMMISSION,

Iseall Mary Jane Morris, Secretary.

[F.R. Doc. 59-10598; Filed, Dec. 14, 1959; 8:59 a.m.]

[Docket No. 12651, etc.]

#### JAMES E. WALLEY ET AL.

#### Correction

In re applications of James E. Walley, Oroville, California, Docket No. 12651, File No. BP-11655; Robert L. Stoddard, tr/as Sierra Broadcasting Company (KATO), Reno, Nevada, Docket No. 12819, File No. BP-12299; Finley Broadcasting Company (KSRO), Santa Rosa, California, Docket No. 12820, File No. BP-12313; Gene V. Mitchell and Robert T. McVay, d/b as Sanval Broadcasters, Oroville, California, Docket No. 12821, File No. BP-12381; Leslie G. Foote, tr/as Mojave Broadcasters (KDOL), Mojave, California, Docket No. 13280, File No. BMP-8561; Western States Radio (KIST), Santa Barbara, California, Docket No. 13281, File No. BP-12664; KATY, Sweetheart of San Luis Obispo. Inc. (KATY), San Luis Obispo, California, Docket No. 13282, File No. BP-12760; Komy, Inc. (KOMY), Watsonville, California, Docket No. 13283, File No. BP-12853; McMahan Broadcasting Co. (KMAK), Fresno, California, Docket No. 13284, File No. BP-12979; for construction permits.

The Order (FCC 59-1189) adopted by the Commission on November 25, 1959, and released December 2, 1959, is herein corrected on page six with respect to the second "Further Ordered" paragraph to read as follows:

It is further ordered, That this order shall supersede, with respect to the issues only, the Commission's order of April 22, 1959, designating for hearing in a consolidated proceeding the first four above-captioned applications.

Released: December 9, 1959,

FEDERAL COMMUNICATIONS
COMMISSION,

[SEAL] MARY JANE MORRIS, Secretary.

[F.R. Doc. 59-10599; Filed, Dec. 14, 1959; ~8:59 a.m.]

# SECURITIES AND EXCHANGE COMMISSION

[File No. 812-1249]

#### BANK OF BUFFALO

#### Notice of Filing of Application

**DECEMBER 8, 1959.** 

Notice is hereby given that Bank of Buffalo ("Bank"), a corporation formed under the Banking Law of the State of New York, having its principal place of business at 17 Court Street, Buffalo, New York, has filed an application pursuant to sections 17(b) and 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission granting an exemption from the provisions of section 17(a) (3) of the Act so as to permit the making of loans by Bank to certain of its Directors, subject to terms and limitations hereinafter set forth.

The Equity Corporation ("Equity"), a registered investment company, controls approximately 23 percent of the voting stock of Financial General Corporation, which owns all of the stock of The Morris Plan Corporation, which in turn owns all of the stock of Empire Shares Corporation. Empire Shares is the owner of a majority of the voting stock of Bank. Under these circumstances, Bank is an affiliated person of Equity and Bank's Directors are affiliated persons of an affiliated person of Equity under the Act. Section 17(a) (3) of the Act, with certain exceptions, prohibits an affiliated person of an affiliated person of a registered investment company from borrowing money from any registered investment company or any company controlled by such registered company. Hence, loan transactions between Bank and its Directors are prohibited under section 17(a) (3) unless the Commission grants an exemption pursuant to section 17(b) of the Act.

In support of the application Bank states that on occasions when Directors who are not otherwise affiliated wtih Equity, except as Directors of Bank, desire to borrow money from Bank, Bank finds itself compelled to-direct its own Directors to other banks. Bank, therefore, seeks to have such borrowing transactions made exempt from the provisions of section 17(a)(3). The loans would be made only to Directors who are not otherwise affiliated with Equity or with companies affiliated with Equity; all such loans would be evidenced by a promissory note; such loans would be made at a rate of interest then currently charged by Bank for comparable loans made to the general public, and any such loan must be made in accordance with the laws of the State of New York and any regulations issued pursuant thereto by the Superintendent of Banks. Under such laws banks are prohibited from lending money to directors thereof unless the loans have been approved in writing not more than three months earlier by the other directors, with penalties against the bank as well as any director or officer violating this provision. In addition every Director who is obligated on any loan made by Bank is

required by the New York Banking Law to file a statement of his financial condition with Bank at least once each year, unless the obligations are secured by collateral having an ascertained market value of at least 15 percent more than the amount of the obligation. Bank also points out that it is examined yearly by the Superintendent of Banks and by the Federal Deposit Insurance Corporation, and a thorough and exhaustive analysis is made of all of the operations of Bank by both of these agencies.

Under section 17(b) of the Act the Commission shall grant an exemption from the prohibitions of section 17(a) if it finds that the terms of the proposed transaction are reasonable and fair and will not involve overreaching on the part of any person concerned; that the proposed transaction is consistent with the policy of the registered investment company concerned, as recited in its registration statement and reports filed under the Act, and with the general

purposes of the Act. Since the loans between Bank and its Directors which would be exempted by the requested order are not related to specific transactions but relate to a class of transactions meeting the conditions described in the application and summarized above, Bank has included in its application a request that, in addition to an exemption pursuant to section 17(b) of the Act, the Commission grant an exemption under section 6(c) of the Act. Section 6(c) of the Act authorizes the Commission, by order upon application, to exempt, conditionally or unconditionally, any transaction or any class of transactions from any provisions of the Act or of any rule or regulation thereunder, if and to the extent that the Commission finds such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of

the Act Notice is further given that any interested person may, not later than December 22, 1959 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest. the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL] ORVAL L. DUBOIS, Secretary.

[F.R. Doc. 59-10570; Filed, Dec. 14, 1959; 8:50 a.m.]

[File No. 812-1267 etc.]

#### COMMONWEALTH INCOME FUND, INC. ET AL.

Notice of Filing of Applications for Extension of Time Within Which To Select a Director

**DECEMBER 8, 1959.** 

In the matter of Commonwealth Income Fund, Inc., File No. 812-1267; Commonwealth Investment Company, File No. 812-1268; Commonwealth Stock Fund, Inc., File No. 812-1269.

Notice is hereby given that Commonwealth Income Fund, Inc., Commonwealth Investment Company and Commonwealth Stock Fund, Inc. (hereafter sometimes referred to as "Applicants"), have filed separate applications for an extension of the time within which to select a successor for a director who has resigned from applicants' board of directors.

Section 10(b)(2) of the Investment Company Act of 1940 ("Act") prohibits a registered investment company from having a board of directors, 50 percent or more of whom, are directors, officers, employees or affiliated persons of a principal underwriter of its securities. Section 10(e) of the Act, so far as here relevant, suspends the operation of section 10(b)(2) for a period of thirty days or for such longer period as the Commission may prescribe by order upon application, as not inconsistent with the protection of investors when failure to comply therewith is caused by the death, disqualification or bona fide resignation of a director.

Philip A. Ray, one of applicants' seven directors resigned to accept an appointment as Under Secretary of Commerce. His resignation became effective October 30, 1959. Three of applicants' remaining six directors are affiliated persons of North American Securities Company, applicants' principal underwriter and the composition of their several boards do not comply with the requirements of section 10(b) (2).

Applicants contend that thirty days are inadequate for the remaining directors to investigate and consider the qualifications of prospective new directors and request that the provisions of section 10(e) be extended for an additional period of ninety days. It appears that Commonwealth Stock Fund, Inc., will hold its annual shareholders meeting on February 29, 1960, at which time it is alleged a full slate of seven directors will be submitted for election. Thus the vacancy in at least one company will be filled by vote of the shareholders if the extension of ninety days is granted. Applicants further allege that a ninety day extension would not be inconsistent with the protection of investors.

Notice is further given that any interested person may, not later than December 28, 1959 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should

order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an order disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application, unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

[SEAL]

ORVAL L. DUBOIS, Secretary.

[F.R. Doc. 59-10571; Filed, Dec. 14, 1959; 8:50 a.m.]

[File No. 24NY-4984]

#### PRUDENTIAL COMMERCIAL CORP.

#### Order Temporarily Suspending Exemption, Statement of Reasons Therefor, and Notice of Opportunity for Hearing

DECEMBER 9, 1959.

I. Prudential Commercial Corporation (issuer), a Delaware corporation, 5 Colt Street, Paterson, New Jersey, filed with the Commission on October 21, 1959 a notification on Form 1-A and an offering circular relating to a proposed offering of 150,000 shares of its \$.01 par value common stock at \$2.00 per share, for an aggregate amount of \$300,000, for the purpose of obtaining an exemption from the registration requirements of the Securities Act of 1933, as amended, pursuant to the provisions of section 3(b) and Regulation A promulgated thereunder.
II. The Commission has reasonable

cause to believe that:

A. The terms and conditions of Regulation A have not been complied with, in that:

1. The notification on Form 1-A fails to set forth the name and address of each affiliate of the issuer, as required by Item 2:

2. The notification on Form 1-A fails to disclose accurately, in response to Item 3, the individuals who compose the issuer's board of directors;

3. The notification on Form 1-A fails to set forth fully information concerning unregistered securities issued or sold by the issuer and its affiliated issuers within one year prior to filing, as required by Item 9:

4. The issuer's escrow agreement, filed as an exhibit to the notification on Form 1-A, fails to comply with the escrow requirements of Rule 253(c):

5. The issuer has failed to file a written consent of its accountants named in the offering circular, as required by Item 11(g) of Form 1-A.

B. The offering circular contains untrue statements of material facts and omits to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, particularly with respect to:

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1. The failure to include a reasonably itemized statement of the purposes for which the proceeds of the offering are to be used and the order of priority in which the proceeds will be used for such purposes, as required by Item 6(a) of Schedule I:

2. The failure to disclose that upon completion of the offering the officers, directors, promoters and underwriter would hold 55.2 percent of the outstanding stock for which they paid no cash, whereas the public would hold 44.8 percent of the stock for their cash invest-

ment of \$300,000;

3. The failure to disclose that if all the securities being offered are sold, with the company receiving a net of \$225,000 (after underwriting commissions), the equity of the officers, directors, promoters, and underwriter would be immediately increased to approximately \$124 .-200, while the public's equity would be reduced thereby to \$100,800;

4. The failure to disclose all direct and indirect interests of all officers, directors, and promoters in the issuer or in its affiliates or in any material proposed transactions to which the issuer or its affiliates was or is to be a party, as required by

Item 9(c) of Schedule I;

5. The balance sheet dated October 6, 1959 fails to disclose as a current liability a loan of \$1,000 to the issuer from the issuer's president (such loan being admitted on Page 5 of the issuer's offering circular filed October 21, 1959);

6. The October 6, 1959 balance sheet fails to disclose accurately the number of shares of its capital stock issued and outstanding, or subscribed; and the failure to show in an appropriate manner the fact that 150,000 of these shares were

issued for services;

7. The failure to disclose that 35.000 shares had been issued to Allstate Securities, Inc., by a stock certificate dated October 14, 1959 in spite of the fact that Allstate Securities, Inc. was not to receive these 35,000 shares until all 150,000 shares of this Regulation A offering were sold;

8. The failure to include a statement of cash receipts and disbursements;

9. The failure to disclose that \$700 of the issuer's total assets of \$1,000 (as shown on the October 6, 1959 balance sheet) had been paid to an affiliate of the issuer prior to the October 21, 1959 filing date with the Commission, and the failure to disclose that a total cash disbursement of \$940 (of the aforementioned \$1,000) had been made by October 21, 1959;

10. The use of a certified public accountants' firm name in that the issuer's financial statements are not certified by

C. The offering would be made in violation of section 17 of the Securities Act

of 1933, as amended.

III. It is ordered, Pursuant to Rule 261(a) of the general rules and regulations under the Securities Act of 1933, as amended, that the exemption under Regulation A be, and it is hereby, temporarily suspended.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission

a written request for hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission, for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however to the consideration and presentation of additional matters at the hearing; that if no hearing is requested and none is ordered by the Commission, this order shall become permanent on the thirtieth day after its entry and shall remain in effect unless or until it is modified or vacated by the Commission; and that notice of the time and place for any hearing will promptly be given by the Commission.

By the Commission.

[SEAL] · ORVAL L. DUBOIS, Secretary.

[F.R. Doc, 59-10572; Filed, Dec. 14, 1959; 8:51 a.m.]

[File No. 812-1253]

#### WEBSTER INVESTORS, INC., ET AL. Notice of Filing of Application for an Order Exempting Certain Transactions Incident to a Merger

DECEMBER 8, 1959.

In the matter of Webster Investors, Inc., American Manufacturing Company, Inc., and Safety Industries, Inc., File No. 812-1253.

Notice is hereby given that Webster Investors, Inc. ("Webster"), a Delaware Corporation, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, and Safety Industries, Inc. ("Safety"), and American Manufacturing Company, Inc. ("American"), affiliated persons of Webster, have filed an application and amendments thereto pursuant to section 17(b) of the Act for an order of the Commission exempting from the provisions of section 17(a) of the Act certain transactions incident to a merger of Safety and American, with American as the surviving corporation.

Webster, and affiliated persons of Webster, own approximately 64 percent of the outstanding capital stock of American, and Webster and American own approximately 37 percent of the outstanding stock of Safety.

American is engaged in the domestic cordage, oakum, and packing businesses. It also has a substantial investment in Mergenthaler Linotype Company and in Safety.

engaged directly, and Safety is through wholly owned subsidiary companies, in the manufacture and sale of industrial scales and weighers, industrial timers and controls, processing equipment for chemical milling and general process industries, and, to a lesser degree, in furnishing services to certain railway interests. Safety, in addition, holds a substantial interest in Vapor Heating Corporation, a company which also serves the railroad industry.

It is proposed that the surviving corporation, American, will have outstanding Class A stock and common stock. The stockholders of Safety will be offered one share of Class A stock of the surviving corporation for each share they hold of Safety common, and the stockholders of American will be offered one share of Common stock of the surviving corporation for each share they held of American. The Class A stock of the surviving corporation will be entitled to preferential cumulative dividends at the rate of \$1.10 per share; will have one vote per share; will have a par value of \$25 per share; will be redeemable at any time (after October 1. 1960) upon 30 days' prior notice at \$26.50 per share plus accrued dividends; and will be convertible into Common stock at specified ratios, but will have no liquidating preference on dissolution, The capitalization of the constituent companies are set forth in the following table:

_	September 15, 1959			
Title of class	Author- ized	Outstand- ing		
SAFETY	,			
Common stock, \$12.50 par value	Shares 890, 000	1 399, 727		
Common stock, \$25 par value	³ 400, 000	² 234, 681		

¹ Options to purchase 10,950 shares of Common Stock

¹ Options to purchase 10,950 shares of Common Stock are held by certain officers and employees at prices ranging from \$16.63 per share to \$27.79 per share.

² Options to purchase 5,850 shares of Common Stock are held by certain officers and employees at prices ranging from \$28.75 to \$40.85 per share. If American splits its stock 2 for 1 (see below), the number of shares which may be purchased and the prices per share will be correspondingly adjusted.

³ Prior to the effective date of the proposed merger American will split its stock on a 2 for 1 basis, reduce the par value to \$12.50 per share, and increase its authorized stock to \$00,000 shares.

Generally speaking, section 17(a) of the Act prohibits an affiliated person of a registered investment company, or any affiliated person of such a person, from selling to, or purchasing from such registered investment company, or any company controlled by such registered company, any securities or property, subject to certain exceptions not here pertinent. The Commission, upon application pursuant to section 17(b), may grant an exemption from the provisions of section 17(a) if it finds that the terms of the proposed transactions, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, that the proposed transactions are consistent with the policy of any registered investment company concerned, as recited in its registration statement and reports filed under the Act, and areconsistent with the general purposes of the Act.

¹Share for share until October 1, 1960; from then until October 1, 1961, it will be convertible into 9/10ths of a share of Common stock; and following October 1, 1961, it will be convertible into 8/10ths of a share of Common stock.

The asset value of a share of stock of Safety and American as of September 30, 1959, as shown by their respective balance sheets as adjusted in certain repects mentioned below, were approximately \$44 and \$46, respectively, after:

- (a) Taking the market value of the Vapor stock owned by Safety in lieu of cost;
- (b) A 2 for 1 interim split of the Common stock of American;
- (c) Valuation of the stock of Safety owned by American at the underlying asset value of Safety (as so adjusted); and
- (d) Valuation of the stock of Mergenthaler held by American at the consolidated underlying asset value of Mergenthaler.
- It is represented that the earnings of both Safety and American for periods prior to the nine months ended September 30, 1959 are believed not to be truly representative of the future earning capabilities of either. The current earnings are stated to be more indicative because
- (a) Safety has recently disposed of its substantial railroad electric lighting, heating and air conditioning manufacturing divisions, which operations were a substantial part of its business during 1955-1958;
- (b) American has made in the current year major increases in its holdings in its Safety and Mergenthaler enterprises;
- (c) Mergenthaler in 1958 moved its chief manufacturing facilities, the cost and interruptions of this step being now completed; and
- (d) The mortgage receivable of American commenced on February 9 of this year to draw interest (4 percent) for the first time.

These nine months' earnings were \$1.43 per share of Safety (prior to a nonrecurring item and credit) and \$1.02 per share of American after adjustment for a 2 for 1 split. If instead of including dividends received by American from Mergenthaler, American's interest in the consolidated earnings of Mergenthaler and domestic subsidiaries for the ninemonth period ended September 30, 1959 were included, based upon Mergenthaler's stock owned at September 30, 1959, and minus the return obtained from the cash (temporarily invested) used to purchase the stock, the per share earnings of American stock would have been \$1.52 per share. American obtained control (along with Webster) of Safety in the current year and if American's interest in the earnings of Safety, based upon the Safety stock owned at September 30, 1959, rather than dividends received is considered, American's nine months' earnings would have been \$1.78 per share after deducting the rate of return on the cash (temporarily invested) used to purchase stock of Safety.

The following table shows, for the indicated periods, the approximate range of the high asked and low bid prices of the common stocks of American and Safety. No adjustment is reflected for the 2 for 1 split of the American stock. The terms of the proposed merger first became known to the public on or about September 22, 1959.

	America America Exch:	n Stock	Safety-Over- the-counter		
	High	Low	High	Low	
1956	341/4 371/4	27] { 23	25 31	201/2 20	
1958 1959:	401/2	261/3	203/4	141/4	
1st quarter	401/2	381/4	2234 2534	201. 217.8 22	
2d quarter	45	39	2534	217	
3d quarter	4634	45	25)4	22	

The bid and asked prices on December 1, 1959, were \$48 and \$53, respectively, for American Common Stock and \$23\(\frac{1}{4}\) and \$24\(\frac{1}{2}\), respectively, for Safety Stock.

Under the terms of the proposed merger, outstanding capital stock of the constituent companies would be converted into common stock and Class A Stock of the Surviving Corporation as follows:

#### American

common stock, par value \$12.50 per share.

For each share of One share of common stock, par value \$12.50 per share, of the Surviving Corporation.

#### Salety

For each share of One share of Class A Stock, par value \$25 per share, of the Surviving Corcapital stock, par value \$12.50 per share. poration.

All shares of stock of any constituent company held by another constituent company and all shares of stock of any constituent company held by such constituent company in its treasury, in each case on the effective date of the merger. shall be surrendered to the Surviving Corporation for cancellation, and no shares of stock of the Surviving Corporation shall be issued or issuable in respect thereof.

The Boards of Directors of the constituent companies have each duly adopted an Agreement of Merger pursuant to the laws of Delaware. The Delaware statutes, which govern the constituent companies, confer upon the shareholders of corporations proposing to merge or consolidate the right, upon compliance with certain statutory formalities, to require the appraisal of their shares and the payment of the appraised value in cash

The management of American is not soliciting proxies from its stockholders. The reason for this non-solicitation rests in the fact that the principal stockholders and two directors own more than two-thirds of the outstanding common stock of American.

The management of Safety is soliciting proxies. The affirmative vote of the holders of record of at least two-thirds of the outstanding shares of the stock of American and Safety is required for approval of the proposed merger.

Applicants assert that the terms of the proposed merger are reasonable and fair and do not involve overreaching on the part of any person concerned.

Notice is hereby given that any interested person may, not later than December 22, 1959, at 12:30 p.m., submit to the Commission in writing a request for a hearing on the matter, accompanied

by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington 25, D.C. At any time after said date, as provided by Rule O-5 of the rules and regulations promulgated under the Act, an ofder disposing of the application herein may be issued by the Commission upon the basis of the showing contained in said application unless an order for hearing upon said application shall be issued upon request or upon the Commission's own motion.

By the Commission.

ORVAL L. DUBOIS, Secretary.

[F.R. Doc. 59-10573; Filed, Dec. 14, 1959; 8:51 a.m.)

### DEPARTMENT OF JUSTICE

Office of Alien Property LEONORA HOLMES MOLA

#### Notice of Intention To Return Vested Property

Pursuant to section 32(f) of the Trading With the Enemy Act, as amended, notice is hereby given of intention to return, on or after 30 days from the date of publication hereof, the following property, subject to any increase or decrease resulting from the administration thereof prior to return, and after adequate provision for taxes and conservatory expenses:

Claimant, Claim No., Property, and Location

Leonora Holmes Mola, Rome, Italy; Claim No. 67004; All right, title, interest and claim of any kind or character whatsoever of Leonora Holmes Mola in and to trusts created under the Will of Esther R. Holmes, deceased, presently under administration by Spring-field Safe Deposit and Trust Company, Springfield, Massachusetts. Vesting Order No. 1478.

Executed at Washington, D.C., on December 8, 1959.

For the Attorney General.

DALLAS S. TOWNSEND. Assistant Attorney General, Director, Office of Alien Property.

[FR Doc 59-10582; Filed, Dec. 14, 1959; 8.53 a m 1

[Vesting Order SA-275]

#### EXPORT UNGARISCHE MALZFABRIK

In re: Property indirectly owned by Export Ungarische Malzfabrik, Budapest, Hungary; F-34-1706.

Under the authority of Title II of the International Claims Settlement Act of 1949, as amended (69 Stat. 562), Executive Order 10644, November 7, 1955 (20 F.R. 8363), Department of Justice Order No. 106-55, November 23, 1955 (20 FR. 8993), and pursuant to law, after investigation, it is hereby found and determined:

1. That the property described as follows:

That certain debt or other obligation of The Chase Manhattan Bank, 18 Pine Street, New York 15, New York, in the sum of \$1,447.40 arising out of a blocked account maintained by said company in the name of "Amsterdamsche Bank N. V., Amsterdam blocked account, sub-account Export Ungarische Malzfabrik, Budapest" together with any and all rights to demand, enforce and collect the same,

is property within the United States which was blocked in accordance with Executive Order 8389, as amended, and remained blocked on August 9, 1955, and which is, and as of September 15, 1947, was indirectly owned by Export Ungarische Malzfabrik, Budapest, Hungary, a national of Hungary as defined in said Executive Order 8389, as amended.

2. That the property described herein is not owned directly by a natural person.

There is hereby vested in the Attorney General of the United States the property described above, to be administered, sold, or otherwise liquidated, in accordance with the provisions of Title II of the International Claims Settlement Act of 1949, as amended.

It is hereby required that the property described above be paid, conveyed, transferred, assigned and delivered to or for the account of the Attorney General of the United States in accordance with directions and instructions issued by or for the Assistant Attorney General, Director, Office of Alien Property, Department of Justice.

The foregoing requirement and any supplement thereto shall be deemed instructions or directions issued under Title II of the International Claims Settlement Act of 1949, as amended. Attention is directed to section 205 of said Title II (69 Stat. 562) which provides that:

Any payment, conveyance, transfer, assignment, or delivery of property made to the President or his designee pursuant to this title, or any rule, regulation, instruction, or direction issued under this title, shall to the extent thereof be a full acquitance and discharge for all purposes of the obligation of the person making the same; and no person shall be held liable in any court for or in respect of any such payment, conveyance, transfer, assignment, or delivery made in good faith in pursuance of and in reliance on the provisions of this title, or of any rule, regulation, instruction, or direction issued thereunder.

Executed at Washington, D. C., on December 9, 1959.

For the Attorney General.

[SEAL] DALLAS S. TOWNSEND,
Assistant Attorney General,
Director, Office of Alien Property.

[FR. Doc 59-10583; Filed, Dec. 14, 1959; 8.53 a.m.]

# INTERSTATE COMMERCE COMMISSION

# FOURTH SECTION APPLICATIONS FOR RELIEF

DECEMBER 10, 1959.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

#### LONG-AND-SHORT HAUL

FSA No. 35881: Anhydrous ammonia from. to, and between C & EI stations in Indiana. Filed by Southwestern Freight Bureau, Agent (No. B-7700), for interested rail carriers. Rates on anhydrous ammonia, in tank-car loads between specified C & EI stations in Indiana, also between such stations and Mount Vernon, Ind., on the one hand, and on the other, stations in IFA, WTL, and southwestern territories.

Grounds for relief: Short-line distance formula, grouping, and relief line arbitraries.

Tariffs: Supplement 75 to Southwestern Freight Bureau tariff I.C.C. 4290, and other schedules named in the application.

ESA No. 35832: TOFC service between WTL and official territories. Filed by Western Trunk Line Committee, Agent (No. A-2099), for interested rail carriers. Rates on property moving on class rates loaded in trailers and transported on railroad flat cars between specified points in WTL territory, on the one hand, and specified points in official territory, on the other.

Grounds for relief: Motor-truck competition, grouping, and operation through higher-rated intermediate points.

Tariff: Supplement 18 to Western Trunk Line Committee tariff I.C.C. A-4281.

FSA No. 35883: Tetrachloride and perchlorocthylene—Wichita, Kans., to south. Filed by Western Trunk Line Committee. Agent (No. A-2100), for interested rail carriers. Rates on carbon tetrachloride. liquid, and perchloroethylene, liquid, in carloads from Wichita, Kans., to points in southern territory.

Grounds for relief: Short-line distance formulas, grouping, and market competition.

Tariff: Supplement 62 to Western Trunk Line Committee tariff, I.C.C. A-4241.

FSA No. 35884: Vegetable meal from WTL territory to the south. Filed by Western Trunk Line Committee, Agent (No. A-2102), for interested rail carriers. Rates on vegetable meal and related articles, in carloads from points in WTL territory to points in southern territory.

Grounds for relief: Rail carrier competition.

Tariff: Supplement 62 to Western Trunk Line Committee tariff I.C.C.

FSA No. 35885: Soda ash—Baton Rouge and New Orleans, La., to Tampa and Hillsboro, Fla. Filed by O. W., South, Jr., Agent (SFA No. A3837), for interested rail carriers. Rates on soda ash. in bulk, in carloads from Baton Rouge and New Orleans, La., to Tampa and Hillsboro, Fla.

Grounds for relief: Barge competition. Tariff: Supplement 121 to Southern Freight Association tariff I.C.C. 1526.

FSA No. 35886: Soda ash—Baton Rouge and North Baton Rouge, La., to the Carolinas and Tennessee. Filed by O. W. South, Jr., Agent (SFA No. A3879), for interested rail carriers. Rates on soda ash, in bulk, in carloads from Baton Rouge and North Baton Rouge, La., to Bessemer City, Sylva, N.C., Harriman, Holston, Kingsport, Tenn., and Laurens, S.C.

Grounds for relief: Market competition with Saltville, Va.

Tariff: Supplement 121 to Southern Freight Association tariff I.C.C. 1526.

FSA No. 35887: Livestock from the south to Mississippi River crossings. Filed by O. W. South, Jr., Agent (SFA No. A3881), for interested rail carriers. Rates on livestock, in carloads from points in southern territory, including Ohio and Mississippi River crossings, Washington, D.C., and points in Virginia and West Virginia to specified Mississippi River crossings, on traffic destined beyond.

Grounds for relief: Short-line distance formula, and grouping.

Tariff: Supplement 18 to Southern Freight Association tariff I.C.C. 1602.

FSA No. 35888: Substituted service—NYNH&H for Spector Freight System, Inc. Filed jointly by the New York, New Haven and Hartford Railroad Company and Spector Freight System, Inc. (No. 216), for themselves and other motor carriers. Rates on property loaded in highway semitrailers and transported on railroad flat cars between Boston and Springfield, Mass., and Providence, R.I., on the one hand, and New Haven, Conn. on the other, on traffic originating at or destined to points in the territories described in the application.

Grounds for relief: Motor-truck competition.

By the Commission.

[SEAL] HAROLD D McCoy, Secretary.

[FR. Doc. 59-10575, Filed, Dec. 14, 1959; 8.51 a m ,

[Notice 235]

# MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 10 1959

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulation prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's ectal rules of practice any interested rson may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 62385. By order of December 7, 1959, the Transfer Board approved the transfer to Wendell A. Larsen. Elk Horn, Iowa, of Certificate No. MC 48492, issued June 22, 1955, to Paul C. Anderson, Audubon, Iowa, authorizing the transportation of: Livestock and agricultural commodities, from Fiscus, Iowa, to Omaha, Nebr., serving the intermediate and off-route point of Harlan, Iowa, and points within 15 miles of Fiscus: general commodities, excluding household goods, commodities in bulk. and other specified commodities, from Omaha, Nebr., to Fiscus, Iowa, serving the intermediate and off-route point of Harlan, Iowa, and points within 15 miles of Fiscus; and livestock, between Fiscus, Iowa, and points within 15 miles of Fiscus, on the one hand, and, on the other, all points in Nebraska except Omaha, St. Joseph and Kansas City, Mo., and Kansas City, Kans. Marion Boose, The Shelby County State Bank, Elk Horn, Iowa, for applicants.

No. MC-FC 62593. By order of December 7, 1959, the Transfer Board approved the transfer to Newberg Auto Freight, Inc., Newberg, Oreg., of Certificate in No. MC 29821, issued June 10, 1955, to Jean M. Vandevert and C. N. Windsor, a partnership, doing business as Newberg Auto Freight, Newberg, Oreg., authorizing the transportation of: general commodities, with the usual exceptions including household goods and commodities in bulk, between specified points in Oregon, and, general commodities, and household goods, between specified points in Oregon. Norman E. Sutherland, 1100 Jackson Tower, Portland, Oreg., for applicants.

No. MC-FC 62609. By order of December 7, 1959, the Transfer Board approved the transfer to Beat Transport, Inc., Atlanta, Ga., of Certificate No. MC 113231, issued September 16, 1952, to Cutter's Incorporated and acquired by Hubert Cotton, doing business as Boat Transport, Atlanta, Ga., authorizing the transportation of: Used boats, between points in Georgia, on the one hand, and, on the other, points in Alabama, Florida, Tennessee, and South Carolina. Paul M. Daniell, Suite 214. Grant Building, Atlanta, Ga., for applicants.

No MC-FC 62615. By order of December 7, 1959, the Transfer Board approved the transfer to P. Basil Lambros, doing business as Lambros Auto Transtation, Montebello, Calif., of Certificate No. MC 114341, issued August 8, 1958, to H. Philip Dexheimer, doing business as Dexheimer Transportation, Los Anteles, Calif., authorizing the

transportation of: Used motor vehicles, including wrecked, embezzled, or repossessed vehicles, in Truckaway service, from points in Oklahoma, and Texas, to points in California. Ivan McWhinney, 639 South Spring Street, Los Angeles 14, Calif., for applicants.

No. MC-FC 62623.. By order of December 7, 1959, the Transfer Board approved the transfer to A. Salavitch and Sons Company, Chicago, Ill., of Permit No. MC 45532, issued September 3, 1943. to David Salavitch and Morris Salavitch. doing business as A. Salavitch & Sons. Chicago, Ill., authorizing the transportation of: Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and equipment, materials, and supplies used in the conduct of such business, between Chicago, Ill., on the one hand, and, on the other, points in Illinois on and North of U.S. Highway 30. George J. Schaller, 33 North La Salle Street, Chicago, Ill., for applicants.

No. MC-FC 62704. By order of December 7, 1959, the Transfer Board approved the transfer to Robertson Transportation Co., Inc., Madison, Wis., of certificate in No. MC 95265, issued February 17, 1958. to John C. Robertson, doing business as Robertson Transportation Company, Madison, Wis., authorizing the transportation of: General commodities, over regular routes, excluding household goods, commodities in bulk, and other specified commodities between Chicago, Ill., and various specified points in Wisconsin; and over irregular routes, feed, seed, fertilizer, farm supplies, farm machinery and soy beans from Hammond, Ind., and points in Ill., Iowa, and Minn, to points in Wis.; wire and fencing supplies from Sterling, Ill., to points in Wis., canned goods, in truckload lots, from points in Ind. to points in Ill., from points in Wis., to St. Louis, Mo., points in Indiana, and Iowa with exceptions, moving through Streator, Ill., from Streator, Ill., to points in Indiana and Iowa with exceptions. from points in Indiana to points in Wisconsin; canning factory machinery from Chicago and Rockford, Ill., and St. Louis, Mo. to points in Wisconsin: feed, seed, grain, grain products, cod-liver oil, molasses, minerals, and powdered milk between points in Wis., to points in the Chicago, Ill., commercial zone: canned goods and canning equipment and supplies between points in Wisconsin on the one hand, and, on the other, St. Louis, Mo., and points in Illinois, Iowa and Minnesota, with exceptions; canned goods between points in Wisconsin on the one hand, and, on the other, St. Louis, Mo., points in Iowa and points in Illinois; between points in Wisconsin, on the one hand, and, on the other, points in Indiana, moving through Cook and Will Counties, Ill., supplies used in the manufacture of canned goods, between points in Wisconsin, on the one hand, and, on the other, points in Iowa, and points in Illinois and Indiana; agricultural commodities, creamery products, and materials, supplies and equipment used in conduct of such business, between points in Wisconsin and Illinois: livestock between points in Wisconsin. Illinois, Iowa, and Minnesota; household goods and office equipment between points in Wisconsin on the one hand, and, on the other, points in Illinois, Iowa and Minnesota; and household goods between Madison, Wisconsin, on the one hand, and, on the other, points in Indiana within 300 miles of Madison. Adolph J. Bieberstein, Attorney, 121 West Doty Street, Madison 3, Wisconsin.

No. MC-FC 62725. By order of December 7, 1959, the Transfer Board approved the transfer to Harry F. McDermott, doing business as Murphy-McDermott Trucking Co., Trenton, N.J., of a portion of Certificate No. MC 13746, issued September 29, 1949, to Trenton Daily Express, Inc., authorizing the transportation of: General commodities, excluding household goods, commodities in bulk, and other specified commodities, between Trenton, N.J., and Philadelphia, Pa., over regular routes. Jacob Polin, 314 Old Lancaster Road, Merion, Pa., for applicants.

No. MC-FC 62726. By order of December 7, 1959, the Transfer Board approved the transfer to Harry F. McDermott, doing business as Murphy-McDermott Trucking Co., Trenton, N.J., of Certificate No. MC 72464, issued July 16, 1947, to Petry Express and Storage Company, Trenton, N.J., authorizing the transportation of General commodities excluding household goods, commodities in bulk, and other specified commodities, between Trenton, N.J., on the one hand, and, on the other, points in the New York, N.Y., commercial zone; wire cable, from Trenton, N.J., to points in Pennsylvania; and cotton uniforms, from Trenton, N.J. to Philadelphia, Pa. Jacob Polin, 314 Old Lancaster Road, Merion, Pa., for applicants.

No. MC-FC 62730. By order of December 7, 1959, the Transfer Board approved the transfer to R. Comeau, Inc., Adams, Mass., of Certificate in No. MC 95224, issued September 3, 1942, to Rene Comeau, Adams, Mass., authorizing the transportation of: Lime and limestone products, from points in Berkshire County, Mass., to specified points in Vermont, Connecticut, Rhode Island, and New York, William L., Mobley, 1694 Main Street, Springfield, Mass., for applicants.

No. MC-FC 62747. By order of December 8, 1959, the Transfer Board approved the transfer to Bainbridge Bus Co., Inc., Port Deposit Md. of Certificate No. MC 108145 Sub 2, issued February 13, 1957, in the name of John W. Calary and Louise M. Calary, a partnership, doing business as Bainbridge Bus Co., Port Deposit, Md., authorizing the transportation of passengers, over a regular route, between Port Deposit, Md., and Perryville, Md., serving all intermediate points. John W. Calary, Port Deposit, Md., for applicants

No. MC-FC 62750 By order of December 7, 1959, the Transfer Board approved the transfer to Dora A. Phillips, Walter J. Phillips, Jr., Clair W. Phillips, and Frederick D. Phillips, a partnership, doing business as Walter J. Phillips Sous, Franklin, Pennsylvania, of a Certificate in No. MC 100934, issued October 21, 1940, to Walter J. Phillips, Walter J. Phillips, Jr., and Clair W. Phillips, Ex-

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ecutors, Franklin, Pennsylvania, authorizing the transportation of boilers, heavy machinery oil well equipment, brick, tile, sewer pipe, iron and steel articles, steam shovels, pile drivers, and lumber, materials and equipment, from dismantled plants, over irregular routes, between specified points in Pennsylvania, on the one hand, and, on the other, specified points in Ohio, New York, and West Virginia, James W. Hagar, Commerce Building, P.O. Box 432, Harrisburg, Pa.

No. MC-FC 62755. By order of December 8, 1959, the Transfer Board ap-

proved the transfer to Indiana Tank Line, Inc., of Certificate No. MC 114294, issued July 20, 1954, in the name of H. R. Orbaugh, doing business as Indiana Tank Line, Elwood, Ind., authorizing the transportation of petroleum and petroleum products, in bulk, in tank vehicles, over irregular routes, from Niles, Mich., and points within five miles thereof, to points in Indiana on and north of a line extending from the Indiana-Ohio State line over U.S. Highway 52 through Brookville and Rushville to Indianapolis, and thence over U.S. Highway 40

through Plainfield. Stilesville, and Brazil to Terre Haute, and east of a line extending from Terre Haute over U.S. Highway 41 through Rockville, Atticated and Lake Village to the Indiana-Illinol State line, with no transportation for compensation on return except as otherwise authorized. Harold R. Orbaugh, 31st and Main Streets, Elwood, Ind., for applicant:

[SEAL] HAROLD D. McCQY, Secretary.

[F.R. Doc. 59-10576; Filed, Dec. 14, 1959; 8.52 a.m.]

#### CUMULATIVE CODIFICATION GUIDE-DECEMBER

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